

***United States Court of Appeals
for the Second Circuit***



APPENDIX

75-4009

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IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Nos. 75-4009 and 75-4043

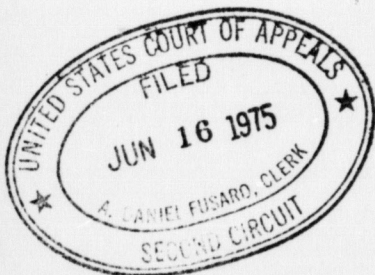
SALANT CORPORATION, d/b/a CARRIZO
MANUFACTURING CO., INC.,
Petitioner,

v.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

On Petition to Review an Order of the
National Labor Relations Board

APPENDIX



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Manufacturing Co., Inc.



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Before the
National Labor Relations Board

In the Matter of:

Salant Corporation, d/b/a Carrizo
Manufacturing Co., Inc.

Respondent

and

Oberos Unidos Independientes

Charging Party

Docket No.
23-CA-4938-1;
23-CA-4938-2

**CHRONOLOGICAL LIST OF RELEVANT
DOCKET ENTRIES**

Date

1973

Dec. 17 Charge filed.

Dec. 17 Charge filed.

1974

Jan. 30 Order Consolidating Cases and Consolidated Complaint and Notice of Hearing, dated.

Feb. 4 Petitioner's Answer, dated.

Mar. 12 Hearing opened.

Mar. 15 Hearing closed.

May 31 Administrative Law Judge's Decision issued.

June 21 Petitioner's exceptions to Administrative Law Judge's Decision, received.

Oct. 22 Board's Decision and Order, dated.

Nov. 20 Petitioner's Motion for Reconsideration, dated.

Dec. 5 Petitioner's letter in further support of motion for reconsideration, dated.

1975

Jan. 15 Board's Order denying Petitioner's Motion for Reconsideration, dated.

J.K.P.

D—9184

Carrizo Springs, Tex.

214 NLRB No. 21

United States of America
Before the National Labor Relations Board

Salant Corporation, d/b/a
Carrizo Manufacturing Co., Inc.

and

Oberos Unidos Independientes

} Cases 23-CA-4938-1
and 23-CA-4938-2

DECISION AND ORDER

(Dated October 22, 1974)

On May 31, 1974, Administrative Law Judge Lowell Goerlich issued the attached Decision in this proceeding. Thereafter, the Respondent filed exceptions and a supporting brief, and the General Counsel filed an answering brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,¹ and conclusions of the Administrative Law Judge to the extent consistent herewith² and to adopt his recommended Order, as modified herein.

1. The Administrative Law Judge found, and we agree, that the Respondent violated Section 8(a)(1) and (3) of the Act by discharging Carlos D. Juarez, Jr., Pedro Patlan, and Rebecca Patlan. We also adopt his finding that Respondent violated Section 8(a)(1) when its supervisor, Bill L. McClain, interrogated Juarez on December 8, 1973,³ asking him if he knew anything about meetings held by dissatisfied employees on the 2 preceding days. In addition, we agree with the Administrative Law Judge that Respondent's grant of benefits announced December 12, 1973, violated Section 8(a)(1).

2. The Administrative Law Judge also found that Respondent discharged employees Alberto Esquivel and Jose Sosa in violation of Section 8(a)(1) and (3) of the Act. Respondent

¹ The Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. **Standard Dry Wall Products, Inc.**, 91 NLRB 644 (1950), enfd. 188 F.2d 362 (C.A. 3, 1951). We have carefully examined the record and find no basis for reversing his findings.

² Respondent's request for oral argument is hereby denied as, in our opinion, the record in this case, including the exceptions and briefs, adequately presents the issues and positions of the parties.

³ Unless otherwise specified, all dates referred to herein are in 1973.

contends that Esquivel, the assistant mechanic at Respondent's plant, was discharged for poor work performance and because he had not purchased tools necessary for the proper performance of his work. It asserts that Sosa, a clothing press operator, was discharged for refusing to follow Respondent's incentive or piece-rate production system, for tampering with his press machine, and for producing an inferior product. Respondent further contends that it had no knowledge of the concerted activities in which Esquivel and Sosa participated. For the reasons given below, we are not persuaded that Esquivel and Sosa were unlawfully discharged.

The record contains testimony which supports Respondent's contention that Esquivel and Sosa were discharged for work-related reasons, but the Administrative Law Judge concluded that these asserted reasons were pretextual. However, a finding that the discharges were motivated by the employees' concerted activity would not be warranted unless there is evidence that Respondent was aware of such activity.⁴ And this the record does not support.

The Administrative Law Judge made such an inference because a nonemployee, Joaquin Salgado, passed the Texas Migrant Council building at the time of the employees' December 7 meeting, while Sosa's automobile was parked in front of the building and Esquivel was standing in front of a window, whose curtains were drawn 10 inches.⁵ According to the Administrative Law Judge, "it may reasonably be inferred that Salgado reported these facts to the Respondent." However, the Texas Migrant Council building is used by the

⁴ The Administrative Law Judge's findings that the matter of Respondent's knowledge of Sosa's organizational activity was an immaterial factor in fixing Respondent's guilt is without merit in the circumstances of this case.

⁵ The testimony as to these facts was given by Sosa and Esquivel, not Salgado.

community for birthday parties, showers, bingo, and meetings in general, and it does not appear that Salgado knew of the employees' meeting therein at the time he drove by; according to Salgado, he was on his way to his cousin's house a quarter of a block away. The General Counsel does not allege unlawful surveillance. Finally, Salgado was a local city councilman who had a contract with Respondent to truck goods, and the evidence does not show that he was acting as agent for Respondent for any purpose.

In these circumstances, we are not satisfied that Salgado was actually aware of the presence of Sosa and Esquivel in the Texas Migrant Council building on the night of December 7. But even if he were, there is insufficient basis for attributing that knowledge to Respondent on agency principles set forth by the Administrative Law Judge. We therefore conclude that the General Counsel has not met his burden of establishing an unlawful motivation for the discharges of Sosa and Esquivel. Accordingly, we shall dismiss the 8(a)(1) and (3) allegations with respect to the discharges of Sosa and Esquivel.

3. Salgado learned of the aforementioned employees' meeting on December 8. He questioned Pedro Patlan about it, telling him, "If there is any way I can help you, that's how come you've got me here as a city councilman to help you out." In the circumstances described in his Decision, the Administrative Law Judge concluded that Salgado interrogated Patlan at the direction of Respondent and that Salgado was therefore acting as agent of Respondent, which was responsible for his conduct. But the circumstances upon which he relied do not necessarily establish that as a fact. Salgado's visit to Grave's office is consistent with his role as an independent trucking contractor doing business with Respondent, and his approach to Patlan, as he indicated, was in the role of a city councilman concerned about potential labor prob-

lems at the plant; moreover, Patlan had no reason to believe otherwise. We are therefore unable to conclude that the General Counsel has demonstrated by a preponderance of the evidence that Salgado's interrogation of Patlan restrained and coerced him, in violation of Section 8(a)(1) of the Act. Accordingly, we shall dismiss the 8(a)(1) allegation regarding the conversation between Salgado and Pedro Patlan.

Order

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge, as modified below, and hereby orders that the Respondent, Salant Corporation, d/b/a Carrizo Manufacturing Co., Inc., Carrizo Springs, Texas, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, as so modified:

1. Delete the names of Jose Sosa and Alberto Esquivel from paragraph 2(a).
2. Substitute the attached notice for that of the Administrative Law Judge.

Dated, Washington, D.C. Oct. 22, 1974

HOWARD JENKINS, JR.,	Member
RALPH E. KENNEDY,	Member
JOHN A. PENELLO,	Member
(Seal) NATIONAL LABOR RELATIONS BOARD	

All of our employees are free to remain, or refrain from becoming or remaining, members of a labor organization.

SALANT CORPORATION, d/b/a
CARRIZO MANUFACTURING CO., INC.
(Employer)

Dated By
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, One Allen Center, 500 Dallas Avenue, Suite 920, Houston, Texas 77002, Telephone 713-226-4296.

Appendix

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board, after a trial in which all parties were permitted to introduce evidence, found that we discharged Pedro Patlan, Rebecca Patlan, and Carlos D. Juarez, Jr., unlawfully and that by their discharges we discouraged our employees from engaging in concerted activities and from becoming members of Obreros Unidos Independientes or any other labor organization.

WE WILL offer the above-named employees their former jobs or, if their jobs no longer exist, substantially equivalent positions and will restore their seniority.

WE WILL pay them any backpay they have lost because we discharged them.

WE WILL NOT discharge any employee for the same reasons for which the Board found that we discharged the above-named employees.

WE WILL NOT unlawfully discharge employees for lawfully engaging in union activities or protected concerted activities.

WE WILL NOT unlawfully interrogate any employees with respect to their union or concerted activities.

WE WILL NOT unlawfully grant wage and other employee benefits for the purpose of dissuading our employees from organizing or supporting a union or engaging in concerted activities.

The laws of the United States give all employees these rights:

To organize themselves

To form, join, or help unions

To bargain as a group through representatives they choose

To act together for collective bargaining or other mutual aid or protection

To refuse to do any or all of these things, subject to the union-security requirements of Section 8(a)(3) of the National Labor Relations Act, as amended.

JD—299—74

Carrizo Springs, Tex.

United States of America
Before the National Labor Relations Board
Division of Judges
Washington, D. C.

Salant Corporation, d/b/a
Carrizo Manufacturing,
Co., Inc.

and

Obreros Unidos Independi-
entes.

} Case 23—CA—4938—1,
23—CA—4938—2.

Richard J. Linton, Esq., of Houston, Tex., for the General
Counsel.

Paul R. Rich, Esq., and Antonio Rios, Jr., of Crystal City, Tex.,
for the Charging Party.

Alan L. Rolnick, Esq., of Atlanta, Ga., for the Respondent.

Pedro Patlan, ~~Rebecca Patlan~~, Jose Sosa, and Alberto Esquivel
of Carrizo, Springs, Tex., and Carlos D. Juarez, Jr., of
Crystal City, Tex., *in propria persona*.

DECISION

Statement of the Case

Lowell Goerlich, Administrative Law Judge: The charge in
Case 23—CA—4938—1 filed by Obreros Unidos Independi-

entes on December 17, 1973, against the Respondent, Salant Corporation, d/b/a Carrizo Manufacturing Co., Inc., was served on the Respondent on the same date by registered mail. The charge in Case 23—CA—4938—2 filed by Obreros Unidos Independientes on December 17, 1973, was served on the Respondent on the same date by registered mail. An Order Consolidating Cases and Consolidated Complaint and Notice of Hearing was issued on January 30, 1974. The consolidated complaint charged that the Respondent had unlawfully interrogated employees and had granted them benefits for the purpose of dissuading them from organizing and supporting the Union in violation of Section 8(a)(1) of the National Labor Relations Act, as amended, herein referred to as the Act. The consolidated complaint also charged that the Respondent had violated Section 8(a)(3) of the Act by unlawfully discharging five employees, Pedro Patlan, Rebecca Patlan, Jose Sosa, Alberto Esquivel, and Carlos D. Juarez, Jr.

The Respondent filed a timely answer denying that it had engaged in any of the unfair labor practices alleged.

The cases came on for trial at Eagle Pass, Texas, on March 12, 13, 14, and 15, 1974. Each party was afforded full opportunity to be heard, to call, examine and cross-examine witnesses, to argue orally on the record, to submit proposed findings of fact and conclusions, and to file briefs. All briefs have been carefully considered.

Findings of Fact,¹ Conclusions and Reasons Therefor

I. The Business of the Respondent

Respondent is, and has been at all times material herein, a corporation duly organized under the laws of the State of New

¹ The facts found herein are based on the record as a whole and the observation of the witnesses. The credibility resolutions herein

York, where it maintains its principal office. At all times material herein Respondent, a manufacturer of men's, boy's, and children's apparel, with plants in several states and Mexico, has operated a plant in Carrizo Springs, Texas.

Within the past 12 months, a representative period, Respondent, in the course of its business, sold and shipped apparel products valued in excess of \$50,000 directly from its Carrizo Springs, Texas, plant to its customers located outside the State of Texas.

Respondent is now, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. The Labor Organization Involved

In its answer the Respondent denied that Obreros Unidos Independientes, hereinafter called the Union, was a labor organization within the meaning of the Act.

The constitution of the Union states that its purpose is "to organize and represent workers, except management and supervisory personnel in connection with their employment." Membership encompasses "Any person who works in any industry, except management and supervisory personnel in the State of Texas." Annual elections provide for the election of a president, vice president, treasurer, and secretary. Antonio Rios, Jr., is

have been derived from a review of the entire testimonial record and exhibits, with due regard for the logic of probability, the demeanor of the witnesses, and the teachings of *N.L.R.B. v. Walton Manufacturing Company & Loganville Pants Co.*, 369 U.S. 404, 408. As to those witnesses testifying in contradiction to the findings herein, their testimony has been discredited, either as having been in conflict with the testimony of credible witnesses or because it was in and of itself incredulous and unworthy of belief. All testimony has been reviewed and weighed in the light of the entire record. No testimony has been preterminated.

the incumbent president. The Union has executed a labor agreement with Del Monte Foods, Inc., Crystal City, Texas, which expires in accordance with its terms on January 14, 1977. The unit covered by the agreement was certified by the Acting Regional Director of Region 23 on November 6, 1973. The labor agreement covers employees' conditions of employment and among other things provides for a grievance procedure and arbitration. Since the Union is an organization in which employees participate and exists for the purpose "of dealing with employees concerning grievances, labor disputes, wages, rates of pay, hours of employment" and "conditions of work," it is a labor organization within the meaning of Section 2(5) of the Act.

III. The Unfair Labor Practices

A. The Setting

Salant Corporation is the parent company of wholly owned subsidiaries Thompson Company, Chester Manufacturing Company, Summerville Manufacturing Company, Salant & Salant, and Peerless Buckeye Company. Carrizo Manufacturing Company, Inc., Carrizo Springs, Texas, is a division of Chester Manufacturing Company. At the time the events herein detailed occurred, Joseph Lipshie was the president of the Salant Corporation and Perry Stubblefield was the general manager of the Carrizo Springs plant as well as three of the Respondent's plants located in Piedras Negras, Mexico. Stubblefield expressed the labor policy of the Respondent in these terms: "the company policy is that we negotiate in good faith with organized labor in the locations where they represent the people. And, of course, also our policy is that where they do not represent the people that we use legal means to combat them in those plants that are not organized."² Stubblefield also stated that the "Company

² The Respondent has not always confined itself to the use of legal means to "combat" organized labor. See 164 NLRB 1013; 162 NLRB 264, 267; 92 NLRB 417; and 66 NLRB 24.

policy throughout is to have more or less an open door attitude to the employees that work for us, that we will discuss their problems with them regardless of what they might be."

The Respondent commenced its cutting operation in an old armory building located in Carrizo Springs, Texas.³ In July 1973, the cutting operation was moved to a new building in Carrizo Springs which the Company now occupies. Thereafter finishing was commenced in October 1973 and shipping in November 1973. The Company's products are men's work pants and boys' and girls' jeans. Of the new building the finishing department occupies 20,000 square feet and the warehouse 70,000 square feet.

Employees in the cutting department "cut the parts and package them up or case them up to ship to [Piedras Negras] Mexico by truck for the sewing operation." After the garment has been stitched in the Respondent's Mexican plants it is returned by truck to the Carrizo Springs plant. "All it needs is two button-holes and to be top pressed, leg pressed, and inspected and put through the oven on a conveyor chain to cure the permanent press resin in the fabric." These operations are performed by employees in the finishing department. After the garment is finished it is stored in the warehouse until shipped to the customer. These functions are performed by the employees in the warehouse department. Bill L. McClain, a salaried employee, is foreman of the finishing and the warehouse departments. Stubblefield spends about one-fourth of his time at the Carrizo Springs plant. Assigned to the plant are also Hobart Graves, office manager, Harpo Garcia, personnel manager, Richard Ray, engineer for the Carrizo Springs and the Piedras Negras plants, and Fred Rios, chief mechanic for the Carrizo Springs and the Piedras Negras plants. Rios supervised the mechanics and janitors at the Carrizo Springs plant where he spent little time.

³ Carrizo Springs has a population of slightly over 5,000 persons.

Harold Kane is the head mechanic at the Carrizo Springs plant. According to Stubblefield the "people he [Kane] supervises are his helper and the janitors or watchmen in the plant."

Employees in the finishing department had been paid the Federal minimum of \$1.60 an hour. On November 30, 1973, Stubblefield "held meetings with the personnel from each operation in the finishing department explaining to them the wage structure of a piece rate system. . . ." The Respondent had been operating under "start up conditions" and it was believed that by the end of November "the people were sufficiently trained to be sufficiently impressed . . . by the incentive pay plan." The base rate under such plan was established at \$2.05 per hour.⁴ This piece rate system was implemented on December 3, 1973.

The employees' workweek ended on Friday at which time they received 2 weeks' pay. This represented wages earned during a 2-week period ending on the prior Friday.

On December 3, 4, and 5, 1973, the Respondent held an "opening celebration or dedication for the building of the manufacturing plant in Carrizo Springs, Texas." President Lipshie and Vice President Walter Bullwinkel attended. According to Stubblefield, during Lipshie's visit Lipshie informed him that it was time that the Carrizo Springs plant "moved ahead with [its] program of wage rates, benefits, and this sort of thing." Lipshie advised Stubblefield that he would discuss this matter with other officials of the Respondent and that he would be back in touch with him the following week to let him know what the changes should be.

As explained by employee Pedro Patlan, during the period of the Respondents' operation "a lot of the employees in the

⁴ Such amount was paid to the employee who attained "100 percent of production or the quota that was established for the particular operation."

plant had complaints and they wanted . . . to find a way to do something about them and they were talking about getting together somewhere and discussing some of these things." Patlan agreed to find a place. He contacted Cruz Sanchez and Armando Criel who worked for the Texas Migrant Council which provided social services for the community and Patlan arranged for an employees' meeting in its building located at 912 Adams Street, Carrizo Springs, on December 6, 1973. Twenty to thirty employees were present at the meeting. Sanchez and Criel attended. At the meeting those present realized that they knew little about organizing. Thus it was decided to muster more employees and contact someone who could give the employees advice on how to start organizing. After the meeting Patlan, his wife, Rebecca Patlan, Sanchez, and Criel journeyed to Crystal City, Texas, where they contacted representatives of the Union.

On the next night, December 7, 1973, about 20 employees met again in the Texas Migrant Council building. Antonio Rios, Jr., president of the Union, and Hector Rodriguez, a union organizer, attended. The employees discussed conditions of employment noting that there were no fringe benefits. Rios and Rodriguez spoke to the employees, described the Union's experiences at Del Monte, discussed the problems of organization, and offered the Union's help. The employees decided that they would wait before taking any action until the following Friday when their checks would come out since these checks would reflect the new incentive pay system. No action was taken toward joining the Union since, as explained by Patlan, all the employees wanted was information. Nevertheless, a committee of four individuals was elected, a spokesman for each of the departments. The committee members were to inform the employees in the departments "exactly what was trying to be accomplished and to try to get the majority from each department to come to the meetings." A meeting was set for Friday, December 17, 1973.

While the meeting of December 7, 1973, was in progress employee Alberto Esquivel, who was attending the meeting, saw Joaquin Salgado, a Carrizo Springs city councilman with whom the Respondent had contracted to truck cut work from Carrizo Springs, Texas, to its plants in Piedras Negras, Mexico, drive past the Texas Migrant Council building three times during a period of 4 or 5 minutes. Salgado admitted that he saw his friend Juan Lopez, an employee of the Company, going into the building, which he could not identify by name although other witnesses had no difficulty identifying it by name.

On the next morning, Saturday, December 8, 1973, between 7 and 7:30 a.m., Salgado was observed by Rebecca Patlan in Graves' office together with Stubblefield, Ray, and Graves. Salgado left the group and walked into the plant. He returned "a while later." Ray then left and returned "a little while later" with McClain and the meeting continued until around 9 a.m.

According to Salgado he had contacted Lopez who told him to "ask" Patlan. Salgado asked Patlan "what went on last night." Patlan answered that the employees were trying to find out the benefits for the employees. Among other things Salgado said "If there is any way I can help you, that's how come you've got me here as a city councilman to help you out."⁵ Ray listened briefly to the conversation.⁶ According to Salgado he "went back to Mr. Stubblefield" and told Stubblefield "There is some people here that want to find out what benefits they've got and

⁵ Patlan's testimony as to this conversation was more extensive. According to Patlan the employees' grievances were discussed and he told Salgado that the "reason" for the employee meetings was to organize "some kind of committee" to present grievances. Salgado responded, "We don't want a union in here." Apparently Salgado took the word "committee" to mean "union." Where there is a conflict between the testimony of Salgado and Patlan, Patlan is credited.

⁶ The conversation was in Spanish. Ray said he could not understand Spanish.

all that." After some prompting Salgado agreed that he had mentioned Patlan's name to Stubblefield.

Stubblefield testified that Salgado, at about 8 a.m., entered Graves' office. Salgado informed him of the employees' meeting and that the employees were concerned about their benefits and wages. Salgado said he thought the benefits related to insurance, vacations, and holidays.⁷ Upon Stubblefield's inquiring as to where he obtained the information Salgado answered that he had talked to Patlan who had attended a meeting.

On Monday morning, December 10, 1973, Stubblefield, Ray and McClain were in the plant observing the employees for "mostly all day." This was an unusual procedure for Stubblefield. Stubblefield said that he was in the plant on Monday because he felt that "if someone was real dissatisfied they might accidentally say something to [him] about the situation." Stubblefield discussed Patlan with McClain and pointed out to him that "Pete was standing leaning against a table talking to someone."

That same day Patlan, his wife, and Jose Sosa were fired. After his discharge, at about 4 o'clock, Sosa entered Stubblefield's office and among other things, according to Stubblefield, said "something to the effect that we're going to have a union in here whether you like it or not."

That same day Stubblefield called Lipshie and reminded him of the conversation of the previous week. He pointed out to Lipshie that dissatisfied employees were holding meetings. He asked Lipshie to "speed up" and "hurry this thing up a little."

On December 11, 1973, employee Alberto Esquivel was discharged.

On December 12, 1973, Lipshie responded to Stubblefield's urgings after which Stubblefield assembled the employees and

⁷ Insurance benefits and vacation benefits were not in effect at the time.

announced wage increases, weekly paychecks, holidays, vacations, hospitalization and medical life insurance, and optional dependent coverage. After pointing out that the Respondent gave its employees wages and benefits which compare favorably with the industry because "we work together, we solve our problems together, and in this way we can progress together," Stubblefield closed his remarks as follows: "As a matter of fact this Company has been in existence since 1893. Salant Corporation has 29 Plants. In the United States only 9 Plants have a Union and most of these came on during World War II. The last Plant that was organized was in 1966. Unions have tried since then and have not succeeded because our employees said No to the Union.

Let us work together here as we have during the past month and let us grow together in this way, so I can always talk to you about happy news as I did today."

On this day Carlos D. Juarez, Jr., was fired.

**B. The Alleged Supervisory Status of
Carlos D. Juarez, Jr., and
Pedro Patlan**

The Respondent concedes that if employees Carlos Juarez, Jr., and Pedro Patlan are not supervisors, they were discharged in violation of the Act. Thus the threshold question is whether Juarez and Patlan were supervisors within the meaning of the Act at the time of their discharges.

First: At the time of his discharge Juarez worked in the warehouse under the supervision of McClain who spent 50 percent of his time in the warehouse. Fourteen men and ten women were employed in the warehouse. The women were inspectors of small pants for children. Other employees performed sorting, picking, packing, checking, putting stock in bins, and loading

and unloading trucks. Juarez had not worked in a garment plant before.

Juarez' separation slip listed him as an assistant supervisor which information came to Juarez as a surprise since he had not been previously informed of this title. McClain had never mentioned to him that he was a supervisor nor had any of the employees been given such information.

Juarez was hired on October 2, 1973. After about 2 weeks of doing various jobs in the finishing department McClain⁸ told him that he was going to "help" him in the finishing department. After the fourth week McClain told Juarez that he wanted him to "help" him in the warehouse where he continued to work until he was fired on December 12, 1973.

Each morning Juarez met with McClain at which time McClain gave him orders to transmit to the warehouse employees.⁹ Most of the time Juarez performed the same manual labor as the other warehouse employees. Juarez did not receive a wage raise when he was first assigned to the job, but around 2 weeks before he was discharged (November 24, 1973) his wages were raised 15 cents an hour to \$1.75 an hour.

Sometimes, after an employee had finished a job, Juarez transferred the employee to another job which had been designated by McClain. When no job was designated, occasionally Juarez would make the transfer but then would check with McClain.

⁸ McClain did not testify although he was in the court room.

⁹ Juarez explained some of these orders as follows: "... like this morning let's put three men over here stacking these boxes and take this other four men stacking pants over there on the shelf. And if we had some orders to be picked up, he said put so and so, he would give me the names, different names of the employees, and put those to get the orders out."

Occasionally McClain would transfer an inspector to another job and instruct Juarez to choose the one for the transfer. Since the inspectors performed the same work it made little difference which one was chosen. Sometimes Juarez and other employees remained at work after McClain had left for the day. On these occasions McClain told Juarez what was to be done. After the work was completed the employees left.

McClain determined when overtime would be assigned but some times Juarez chose the employees who were to stay, usually volunteers. This work involved the loading and unloading of trucks.

McClain asked Juarez to inquire of employees why they were late for work, to whom Juarez suggested a few times that they not make a habit of it, that "after doing this too much they might get fired."¹⁰

Twice McClain was absent for part of a day. On these occasions McClain instructed Juarez what was to be done. Juarez followed the orders.

On one occasion a dispute arose between Roger Martinez and Juarez as to who was to give orders. McClain told employees Juarez would give the orders.

Juarez punched a timeclock and was paid overtime as other employees. He attended no supervisors' meetings. He had no disciplinary authority. Juarez was not replaced after he was discharged.

Pedro Patlan had worked for the Respondent for 7 weeks at the time of his discharge. For about 2 weeks after his employment he sorted, sized, and boxed materials coming out of the oven for which he received \$1.60 an hour, the statutory minimum. Thereafter he was given the job in the finishing

¹⁰ Juarez explained, "He [McClain] didn't tell me that but I figured myself that this could happen."

department formerly occupied by Juarez before he was transferred to the warehouse. McClain was Patlan's supervisor. About 30 to 35 employees worked in the finishing department. Some employees operated buttonhole machines, top pressers, leg pressers, and zipper machines; other employees hung garments for the oven and cut elastic. Some were repair operators. All were routine tasks.

On the day Patlan assumed Juarez' job McClain told him that he "was going to be promoted to assistant supervisor" and that he was taking Juarez' place; that he would be earning the same wages and that Juarez would show him "what to do on the job."¹¹ Juarez for a period of about 30 minutes then showed Patlan how to pick up the production count for each employee and said that if he needed anything else to ask him or get in touch with McClain. The short period of instruction required depicts the simplicity and routine character of Patlan's job.

Patlan described his daily routine as follows:

The first thing I would do is I would hand each of the employees the sheets¹² that they would place the tickets on and then I would find out . . . if there was anyone absent and . . . try to get them situated so they would get started. . . . If there was anybody absent, I would report that to Mr. McClain and let him know. And from there during the day . . . other than picking up the counts, I would make sure that they had whatever material they needed to work with and a lot of times they would call me that they needed a mechanic. . . . So that in general was all I did during the day to make sure that they had whatever they needed.

¹¹ The Respondent's personnel records show that Patlan's wage was increased to \$1.675 an hour on November 24, 1973.

¹² These were referred to as gum sheets to which the operator would paste the ticket from the bundle of pants on which he was working; "each ticket represented so many dozens." Patlan obtained the count from these tickets which he placed on the production sheet.

In regard to Patlan's work the credible record reveals, further:

He did no work on the machines. Upon the request of McClain he told pressers to go to the warehouse. He did not handle requests for time off. He handled no warnings except on one occasion McClain told him to tell some employees to quiet down. A few times when machines broke down he told employees to work on another vacant machine. (Sometimes the employees made the transfers themselves.) He had no disciplinary authority. He was never asked by McClain what he thought of an employee's work. He never assigned employees to cleanup work. On a couple of occasions he indicated that a garment would not pass but he had never been instructed "on what kind of quality." He entered employees' downtime on the gum sheets which was necessary for payroll purposes. He entered an employee's absence on the production sheet. He entered information on the gum sheet and the production sheet: he made an entry thereon when the employee was on repressing. He supplied materials for the repair girls. He moved toppers to leggers and vice versa on instructions from McClain. On several occasions he assigned overtime to employees which was determined on the basis of McClain's instruction: "If there is so many benches out there per each worker, then if there is more than that amount they should stay and if not, they can go home at the regular hour." He did not transfer present employees if employees were absent. He "had to see that everybody had the material to work with." He did nothing if the pressers were over loaded. He did not check the inspector's work. He did not, on his own, balance the lines when overloading occurred. He did not, on his own, transfer employees for lack of work. He assigned overtime per instructions on a day McClain was absent. On instructions of McClain he inquired of an employee why his production was down. On instructions of McClain he sent leggers to the warehouse. On several occasions when repress work piled up he decided who would be assigned to repress work. He did not know how to operate the machines or the methods

the employees were using in their operation. He did not know the leg pressers were to be activated for 5 seconds. He did not instruct new employees on their jobs.

An employee witness for the Respondent testified that McClain had never told him that Patlan was his boss nor had anyone ever called Patlan an assistant supervisor.

Patlan envisioned his supervisory authority as follows: "I considered myself being their as nothing more than a messenger boy and somebody to get the little knickknacks. I never felt that I had any authority there whatsoever."

Stubblefield described the alleged supervisory authority of Patlan as follows:

His responsibilities would be to assign the work to balance the work load between operations, to check quality coming off of the various operations, keep certain records of production, even earnings after the piece rates were established. He has the authority to approve or disapprove, whichever the case might be, the off standard time that an operator might have when their job assignment is a piecework job and they have to be moved from this job for any reason.

In addition Stubblefield said Patlan had authority to transfer employees from one job to another, and grant time off and overtime.¹³

¹³ Stubblefield had not personally spoken with either Juarez or Patlan about their authority. McClain, who had been present in the courtroom and who would have had personal knowledge of the work performances of Patlan and Juarez, unexplainedly did not appear as a witness. Not only was Stubblefield's testimony secondary but there is no credible evidence that the alleged extent of the authority of Juarez or Patlan was ever communicated to them or that such authority was exercised by them. Thus Stubblefield's self-serving testimony merits little weight.

Second: Section 2(3) of the Act excludes from the definition of the term "employee," and therefore excludes from the protection of the Act, "any individual employed as a supervisor." Section 2(11) of the Act defines "supervisor" as:

any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

"[T]he employer cannot make a supervisor out of a rank-and-file employee simply by giving him the title and the theoretical power to perform one or more of the enumerated supervisory functions." **N.L.R.B. v. Southern Bleachery & Print Works, Inc.**, 257 F.2d 235, 239 (C.A. 4): "what the statute requires is evidence of actual supervisory authority visibly translated into tangible examples demonstrating the existence of such authority." **Oil, Chemical and Atomic Workers International Union v. N.L.R.B.**, 445 F.2d 237, 243 (C.A. D.C.). Thus the title assistant supervisor, if bestowed, was meaningless within the statutory definition unless the supervisory power as envisioned by the statute was actually exercised and exercised at the time of the employee's discharge.

If the evidence is interpreted most favorably in support of the Respondent's claim, the authority of Juarez and Patlan was limited to transferring, assigning, and responsibly directing employees. Had Juarez and Patlan actually exercised such authority, to satisfy the definition of supervisor, the exercise of such authority must have been "not of a merely routine or clerical nature," but must have required the "use of independent judgment;" for the exercise of some supervisory tasks in a merely "routine," "clerical," "perfunctory," or "sporadic"

manner is not sufficient to bring an employee under the statutory definition of supervisor. **N.L.R.B. v. A. E. Nettleton Co.**, 241 F.2d 130, 132 (C.A. 2). Nor will the existence of independent judgment alone suffice; for "the decisive question is whether [the individual involved] has been found to possess authority to use [his] independent judgment with respect to the exercise by [him] of some one or more of the specific authorities listed in Section 2(11) of the Act." **N.L.R.B. v. Brown & Sharpe Manufacturing Company**, 169 F.2d 331, 332 (C. A. 1).

The credited evidence in this case does not support a finding that Juarez and Patlan at the time of their discharges exercised job functions which aligned them with management. Juarez worked as other employees; he was little more than a "conduit" for McClain who neither held him out to the employees as a boss nor vested in him the right to exercise judgment in respect to the specific authorities listed in Section 2(11) of the Act. Patlan described his duties well when he testified: "I considered myself being there as nothing more than a messenger boy and somebody to get the little knick-nacks. I never felt that I had any authority there whatsoever."

The work which Patlan performed in connection with the production and gum sheets was of a plant clerical nature in that it involved simple record keeping of a routine nature. Moreover, McClain did not hold Patlan out to be a boss nor did he bestow upon him any of the supervisory powers listed in Section 2(11) of the Act.

There was no showing that the duties of Juarez or Patlan gave the feeling of control, power, or superiority that one finds in a supervisor. See **N.L.R.B. v. Security Guard Service, Inc.**, 384 F.2d 143 (C.A. 5). As was true in such case the title and minor decision making power of Juarez and Patlan, if it may be considered as such, did not complete the picture of petty panjandruns. In any event the rule *de minimis* ap-

plies here. "If any authority over someone else, no matter how insignificant or infrequent, made an employee a supervisor, our industrial composite would be predominantly supervisory. Every order-giver is not a supervisor. Even the traffic director tells the president of a company where to park his car." *Idem.*¹⁴

Patlan's wage rate of \$1.675 an hour and Juarez's wage rate of \$1.75 an hour were incompatible with their alleged roles as supervisors since rank-and-file employees, at the time of their discharges, were being paid a base rate of \$2.05 an hour, an amount exceeding either that of Patlan or Juarez. It is obvious that a feeling of power and superiority did not emanate from these marginal wage rates.

Moreover, it seems *contra* to the realities of the industrial world that the Respondent would have turned over to Patlan and Juarez the exercise of independent judgment without additional training when their experience in the garment field was limited to a few weeks.

Additionally, Stubblefield's testimony suggests that the Respondent's claim that Patlan and Juarez were supervisors was prompted as a contrived defense against their discharges for statutory protected activities, for Stubblefield was quick to deny the supervisory status of Kane whose supervisory authority, if any, was more pronounced than that of Patlan or Juarez. Not only did Kane pass on the hire of Esquivel but he, as head mechanic, was the only representative of management directly over Esquivel and the janitors in the Carrizo Springs plant. (Rios was seldom at Carrizo Springs; he spent almost all his time in the Mexican plants.) Stubblefield testi-

¹⁴ "The legislative history of § 2(11) tends to support the Board's view that certain employees with minor supervisory duties, such as straw bosses and leadmen, were not intended to be excluded from the coverage of the Act." *N.L.R.B. v. Quincy Steel Casting Co.*, 200 F.2d 293, 296 (C.A. 1).

fied that the "people he [Kane] supervises are his helper and the janitors or watchmen in the plant." If Respondent did not consider that Kane was a supervisor within the meaning of the Act it was hypocrisy for it to have hung the title of supervisor on Juarez and Patlan.

Accordingly, it is found that Juarez and Patlan at all times mentioned were employees within the meaning of the Act and as such employees were entitled to its benefits. See **Purity Food Stores**, 150 NLRB 1523, 1524, 1525, and **American Coach Company**, 169 NLRB 1065.

C. The Discharge of Pedro Patlan

According to Pedro Patlan's separation slip he was discharged for "unsatisfactory performance on the job." Nevertheless, his **work** performance was satisfactory. The real reason for his discharge as expressed by Stubblefield was: "He was discharged because it was deemed that a person in supervision should not be maintained on that job when they were attending meetings with dissatisfied, allegedly dissatisfied employees without telling his supervisors in the organization." Stubblefield initiated the discharge of Patlan. On the day of Patlan's discharge McClain told Patlan when he asked for a specific reason for his discharge, "you just didn't work out." On being pressed further McClain said, "the women on the buttonhole machines, they are talking too much and not doing enough work." On the same date Stubblefield said that he had observed Patlan "standing leaning against a table talking to someone" and remarked to McClain that he didn't think Patlan "was performing his supervisory duties as he should" because while they were standing there Patlan was "not doing anything really."¹⁵

¹⁵ The remark of McClain at the discharge exit, and Stubblefield's observation of Patlan in the plant and his remarks to McClain, arouse a likely inference that the Respondent was preparing for a defense against the charge of pretext and that the supervisory defense was an afterthought.

D. The Discharge of Rebecca Patlan

Employee Rebecca Patlan, the wife of Pedro Patlan, was also discharged on December 10, 1973. Her separation slip also cites "unsatisfactory performance on the job" which was not the true reason for her discharge. According to Stubblefield, who initiated the discharge of Rebecca Patlan, "the real reason we discharged Rebecca was the fact that we were discharging her husband because he was disloyal supervisor with the Company. Due to Rebecca's position in the office handling matters that, typing my letters, for instance, certain records, it was quite obvious that if she had good relations with her husband she would be disgruntled and unhappy about that and I didn't feel that she would be an employee that could be trusted with that confidence after we had discharged her husband."

Rebecca had accompanied her husband to Crystal City, Texas, when he sought help for the employees from the union representatives and had attended both employee meetings. She had mentioned to Graves that she "wasn't satisfied." At the time of her discharge she was in training for a payroll clerk which entailed computing the amount that the employees earned from the payroll cards. At the time she was training several girls to take over the job she was leaving. She described this job as a receptionist, "girl Friday," typist, and file clerk. She also placed calls and answered the phone. She worked in the general office area. The credited record does not establish that she was a confidential employee.

E. The Discharge of Jose Sosa

Employee Jose Sosa's separation slip also discloses that he was discharged on December 10, 1973, for "unsatisfactory performance on the job." Sosa had worked about 2 months

before he was discharged. He operated a leg presser which was required to remain in the press position for 5 seconds during each press operation. Its time cycle was controlled by a timing valve which could be manually adjusted."¹⁶

At the piecework explanation employee meeting on November 30, 1973, according to Stubblefield, Sosa remarked that "people could make that much working in the field." Thereafter Stubblefield reported to McClain that Sosa "seemed to have a poor attitude, negative attitude to the approach of our number of dozens we were asking for on the job to make production" and that he "thought he should keep an eye on him."

Sosa attended the employee meetings at the Texas Migrant Council building on December 6 and 7, 1973. Sosa invited about 15 employees to the meeting. At the meeting Sosa parked his 1970 station wagon in front of the building, where it was in the view of Salgado when he passed the building. Salgado was acquainted with Sosa and the automobile which Sosa parked in front of the Texas Migrant workers building. Salgado and Sosa lived on the same street about three or four blocks apart.

On Monday, December 3, 1973 (December 3 was the date on which the incentive pay plan was put in effect), Ray adjusted the timer on Sosa's presser at which time he also adjusted the timer on other pressers. Prior to Ray's advent Sosa had adjusted the timer because its pressing sequence was too long, but after Ray's adjustment Sosa did not again meddle with the timer. On Tuesday morning, December 4, the press was "staying down too long." Sosa requested the mechanic

¹⁶ If the pressing cycle was less than 5 seconds an inferior press resulted; however, the operator, if on incentive work, could earn more money. On the day of his discharge Sosa was not engaged on incentive work.

to adjust the timer which he did. The mechanic's adjustment did not accommodate the 5 second cycle. Ray appeared and adjusted the timer and told Sosa that if "the timer was off again" he would be fired. Sosa tried to explain to Ray that the mechanic had adjusted the timer but Ray did not believe him and responded, "Oh, come on. Don't give me that sh..."¹⁷

According to Ray, on Monday morning December 10, 1973, Ray saw Sosa's presser operating out of cycle¹⁸ and went to Stubblefield whom he advised that he intended to discharge Sosa. Stubblefield approved. Stubblefield testified that "Sosa had moved the timer on his legging machine on different occasions to speed up the time cycle on the machine and he had been warned repeatedly¹⁹ that this could not be tolerated by the Company. He continued to do this and in spite of the warnings so Mr. Ray, Richard Ray, our engineer, finally after several warnings discharged Mr. Sosa for this particular instance."²⁰

¹⁷ According to Ray he adjusted Sosa's presser on three occasions. On the third occasion Ray said he "sort of lost [his] temper," at which time Sosa denied that he had meddled with the timer. Ray responded, "that's a bunch of stuff." Ray also reminded Sosa that if the machine was not running properly he should "call a mechanic or let somebody know it wasn't working right."

¹⁸ Apparently (if Ray is to be believed) Sosa's presser operated out of cycle from Monday morning until about 4 o'clock Monday afternoon at which time Sosa was fired.

¹⁹ According to Ray, Sosa had been warned only once. Sosa had received no written warnings.

²⁰ Employee Bustamante, a 19-year-old leg presser, testified on behalf of the Respondent in respect to the Sosa incident. Bustamante first testified that he saw Ray fix the timer on Sosa's presser one time after which Sosa readjusted it. Later he testified that he saw Ray adjust the timer on Sosa's presser three times and Sosa readjusted it "three or more" times. On cross-examination Bustamante testified that he could not see the timer valve from where he worked and that he had not paid too much attention. Bustamante had been invited by Sosa to attend the employees' meeting at the Texas Migrant Coun-

On December 10, the day of Sosa's discharge, he was assigned to repressing which was not a piecework job. Shortly before 4 o'clock (4 o'clock was Sosa's quitting time) Sosa was called to Garcia's office and informed that that was "all for him." Sosa asked, "Why?" Garcia replied, "I don't know." On departing Sosa saw Stubblefield to whom he asked to speak. Both went to Stubblefield's office where Sosa asked Stubblefield why he was fired. Stubblefield answered that "he had been observing [him] all day and he wasn't satisfied with [his] emphasis on the job." Sosa told Stubblefield that he was "pressing more than anybody." Stubblefield answered that "he knew" but there were "some other people doing as much or pretty close to that." Sosa described the remainder of the conversation. "I told him that I knew about Joaquin [Salgado] told him about our meetings and about us getting a union over the factory. At this point he just, you know, looked at his desk. He didn't answer. And I started talking again and then he started staring at me. I told him, 'Even though I'm fired and no longer have the job here, we are still going to get this Union in here.'"²¹

Although Stubblefield said that he was aware of the charges against Sosa of tampering with the timer on the day of his discharge, he did not tell Sosa the nature of his unsatisfactory services.

On December 10, 1973, McClain remarked to Juarez, "Look at Sosa. He's not working. He's working too slow."²²

cil building but did not attend. First Bustamante denied that he had been asked by Sosa to attend. Later he admitted it. Bustamante was not a reliable witness and where his testimony conflicts with other credited witnesses it is discredited. He was obviously trying to accommodate his employer.

²¹ Stubblefield admitted that the remark referring to the Union was made but denied Sosa's remarks about Salgado. On this point Stubblefield is discredited.

²² The uncontroverted and credited testimony of Juarez.

On the day of his discharge Sosa indicated that his presser was not operating properly.

There were about 8 or 10 pressers in the finishing department. From time to time McClain, Harold Kane, mechanic, Alberto Esquivel, mechanic's helper, and Ray adjusted the timers on these machines. Patlan explained, "some of the other employees would tell me that it was going up too fast or it was staying down too long but I couldn't tell the difference so I would just tell them to go over to another machine until we got a mechanic to fix it."

Esquivel testified, "the presser would go down too slow or go up too slow. I would move the knobs under the machine or set it somewhere and I would fix it."

F. The Discharge of Alberto Esquivel

Alberto Esquivel was hired on October 10, 1973, and discharged on December 11, 1973. Thus he worked 2 months. He was hired as a mechanic's helper. He had no previous experience, which he related to Harold Kane, head mechanic, when he interviewed him for hire. Kane said that "was O.K. because he was going to teach [him]." Kane told Esquivel that he needed tools but since he had none he would allow him to use his tools. While Esquivel knew that he needed tools, he did not purchase tools because of a lack of money which fact he related to Garcia. Ray said it was not a requirement that mechanics buy tools.

Esquivel attended the two meetings of the employees in the Texas Migrant Council building. As Esquivel moved over the plant on his work assignments he notified about 25 employees of the meetings. He told the employees that there was to be a meeting "pertaining to complaints of some of the workers and about the price, it was kind of low, and that if

possible we might try to organize a union." At the second meeting, while "facing toward the picture window" Esquivel saw Salgado drive past the Texas Migrant Council building three times.

Prior to his discharge, Esquivel had received no warnings with respect to his work performance. On December 11, 1973, Ray approached Esquivel while he was working on a sewing machine plug and asked him to follow him to Garcia's office, where he discharged him. Ray said that Esquivel "didn't have any tools to use and [he] wasn't a good mechanic and then he asked [him] if [he] were to get any other job and needed a reference to have the one that [he] was going to get the job, to have them call him for a reference"; that he would "tell them that [he] wasn't a good mechanic but [he] was a good worker."

Shortly before Esquivel was discharged Kane had been sent to Dallas for a week's course on the repair of Reece buttonhole machines. Fred Rios, chief mechanic, filled in for Kane for the week in December. Rios arrived on Monday, December 10, 1973. On Monday afternoon, according to Rios, he reported to Ray that "the helper . . . wasn't much interested in learning" although he spent little time with Esquivel that day. On Tuesday Rios advised Ray that "it would be best to replace him." Rios testified that he saw Esquivel once wiring a little trolley drop cord: To the question, "Did you observe him doing anything else while you were there those three days?" Rios answered "No sir, I didn't. I didn't know where he was. I had work to do. I just went and did the work." Rios further stated he had not observed him. Esquivel received no assignments from Rios. Kane never complained to Rios about Esquivel.²³

²³ It is clear from Rios' own testimony that Rios had no factual basis for reporting to Ray that Esquivel was not interested in learning or that it would be best to replace him, which recommendation no doubt was not given. Rios was a disingenuous witness and I conclude that the critical parts of his testimony were fabricated to accommodate his employer. Moreover, the testimony of Ray and Rios on the subject does not jibe.

According to Ray he recommended Esquivel's discharge to Stubblefield based on the recommendation of Rios.²⁴ Ray told Stubblefield, "Fred (Rios) has been working with him yesterday and today and Fred says he is terrible. He won't even try." Stubblefield recited the reason for Esquivel's discharge as follows:

His supervisors advised that he showed lack of interest, inability to perform, the lack of adhering to instructions that were given him by his supervisor to the point that he would not develop into the type mechanic that we would expect and must have. And after several weeks of this type performance, it was deemed necessary to discharge him and start someone else. . . .

G. The Discharge of Carlos D. Juarez, Jr.

Carlos D. Juarez, Jr., was discharged on December 12, 1973, according to his separation slip because of "dissatisfied work" which Stubblefield explained:

the foreman he worked for had repeatedly asked Carlos if he knew anything about any meetings, if he knew anything about any dissatisfied employees, and he asked him many times if in fact he did, if he would come and talk with him, who was Billy McClain, or if he didn't want to discuss it with Billy, if he would come and talk with me about it with any information he might have of dissatisfied employees. And Carlos instead of, according to Billy, instead of advising him and telling him what he knew or what he learned from the people that worked for him, he

²⁴ According to Ray one of Rios' specific complaints in respect to Esquivel was that Esquivel did not know how to put a wheel on a spreader. Rios did not mention this deficiency in his testimony even though he was asked several times on cross-examination to specify what work Esquivel could not perform.

avoided him, he shunned him, and if it is anything a company can't tolerate, it is disloyal supervisors. . . .

Juarez attended the Friday, December 7, 1973, meeting at the Texas Migrant Council building. Juarez told the employees present that if they thought he could help them he would talk to McClain.

On the next morning, December 8, 1973, McClain was summoned to the office. Upon his return he asked Juarez if he knew anything about the meetings. Juarez answered in the affirmative. McClain asked why Juarez had not told him about the meetings. Juarez indicated that he hadn't had a chance, whereupon McClain asked Juarez what the employees wanted. Juarez responded, *inter alia*, that the employees were not satisfied with their wages. McClain replied, "don't you think \$1.60 is enough?" Juarez responded by saying that the \$1.75 he was getting was not enough, and that there were no benefits. Juarez further indicated that he went to the meeting "to find out what they wanted." McClain reminded Juarez that he was working for the Company. Juarez responded that he knew he was working for the Company, "but it looked to [him] as if [he] was in the same situation as the workers because [he] didn't receive any paid holidays or insurance benefits either."

On December 12, 1973, about 11:30, Garcia summoned Juarez to the office where McClain was sitting. McClain said, "Carlos . . . I don't know how I am going to tell you this, but you're been my best friend in this area . . . but the only thing is that I have to terminate you from the job because of unsatisfactory work." Juarez protested saying that the discharge was because he asked for more money and benefits.

H. The Unlawful Interrogations.

Whether the Respondent is guilty of unlawfully interrogating employee Patlan rests upon a finding that Joaquin Salgado was

an agent of the Respondent. The following factors support the finding that Salgado acted as the Respondent's agent: (1) Employee Rebecca Patlan, whose testimony is credited, observed Salgado confer with Stubblefield, Ray, and others in Graves' office, leave, and then return, which strongly indicated that Salgado was sent on a mission. (2) Ray, after leaving Graves' office, approached Salgado and Patlan while in conversation in the plant and listened in on part of the conversation, all of which indicated that Ray had knowledge of Salgado's mission. (3) Salgado, after testifying about his conversation with Patlan, said, "**I went back** to Mr. Stubblefield," the clincher which confirms that Salgado had visited with Stubblefield prior to his accosting Patlan. (Emphasis supplied.) See **N.L.R.B. v. Dayton Motels, Inc.**, 474 F.2d 328, 331 (C.A. 6), and **N.L.R.B. v. General Metal Products Company**, 410 F.2d 473 (C.A. 6), cert. denied 396 U.S. 830.

Accordingly, it is found that by Salgado's interrogation of Patlan and Supervisor McClain's interrogations of Carlos D. Juarez, Jr., as above detailed, the Respondent violated Section 8(a)(1) of the Act. See **N.L.R.B. v. Super Toys, Inc.**, 458 F.2d 180 (C.A. 9); **Hendel Manufacturing Company, Incorporated**, 197 NLRB No. 179.

I. The Discriminatory Discharges.

The five discharges may not be viewed as isolated incidents. Each was an integral part of a machination engineered by the Respondent to discourage membership in a labor organization and to stifle employees' zest (which was apparent at the time) to engage in concerted activities for their mutual aid and protection. The discharges were inextricable occurrences and may not be disassociated one from the other. That the Respondent knew or suspected that its employees had been in contact

with the union seems obvious from Salgado's gratuitous remark to Patlan, "We don't want a union in here." Moreover, Stubblefield admitted that Sosa, upon his discharge, warned him, "we're going to have a union in here whether you like it or not." After this remark there can be little doubt that the Respondent knew a union had been in the picture and its actions thereafter cannot be defended on the ground that it had no knowledge of union activity.²⁵ In any event, in that a union was in the offing, the discharges which were unlawful under Section 8(a)(1) of the Act inherently discouraged employees from becoming members of the Union.

Respondent concedes that, if Patlan and Juarez were not supervisors, they were wrongfully discharged. However, assuming, *arguendo*, that these employees were supervisors, their discharges were nevertheless in violation of Section 8(a)(1) of the Act and the remedy would be the same. The discharges of Patlan and Juarez were part of the Respondent's strategy to squelch its employees' concerted activities and dissuade them from a movement toward the Union. Their discharges had a tendency to deter employees from engaging in concerted activities and furthering any union organizational aspirations. The discharges were an integral part of a pattern of conduct aimed at penalizing employees for exercising their rights under the Act. The grounds utilized by the Respondent to substantiate the discharges of Patlan and Juarez were advanced for the purpose of concealing its real motive; i.e., to stamp out concerted activity and stymie the prospects of employee union affection. See **Krebs and King Toyota, Inc.**, 197 NLRB No. 74; **Miami Coca Cola Bottling Company d/b/a Key West Coca Cola Bottling Company**, 140 NLRB 1359; and **Fairview Nursing Home**, 202 NLRB No. 49,

²⁵ Esquivel and Juarez were discharged after Stubblefield learned from Sosa that a union was in the picture. Had Patlan and his wife been discharged prior to Sosa's discharge (a circumstance which is unclear in the record) the same situation would have existed.

enforced 486 F.2d 1400 (C.A. 5);²⁶ **N.L.R.B. v. J. B. Martin Company**, 395 F.2d 690 (C.A. 4).

The discharge of Rebecca Patlan fell in the Respondent's same pattern of misconduct and was in violation of the Act. Her discharge manifests the Respondent's penchant toward violating the Act in order to scotch its employees' resort to collective endeavor; for an employer may not discharge a relative of an employee engaged in protected, concerted or union activity if the discharge is related, as it was here, to such activity. **Tolly's Market, Inc.—Ben Franklin**, 183 NLRB No. 46; **Golub Bros. Concessions**, 140 NLRB 120; **The Colonial Press, Inc.**, 204 NLRB No. 126; **Big Y Supermarkets**, 173 NLRB 405; and **Champion Papers, Inc. (Ohio Division) v. N.L.R.B.**, 393 F.2d 388, 395 (C.A. 6).

Sosa's automobile was parked where Salgado could have seen it while Sosa was attending the employees' meeting at the Texas Migrant Council building. Esquivel was standing "facing ward a picture window" in the same building while Salgado passed the building three times. Thus, since it may reasonably be inferred that Salgado reported these facts to the Respondent, it appears no coincidence that Sosa and Esquivel were chosen for discharge.

While Sosa's and Esquivel's discharges were a part of the Respondent's pattern of misconduct there are other factors which establish that the Respondent's "real motive"²⁷ in discharging

²⁶ In the light of McClain's interrogation of Juarez and the reasons given for his discharge, the following language from **N.L.R.B. v. Brookside Industries, Inc.**, 308 F.2d 224, 228 (C.A. 4), is appropos: "[His] discharge . . . had the effect of interfering with and restraining the unionists in their membership by frightening them with reproof of a supervisor for not reporting on union activity." See, also, **N.L.R.B. v. Better Monkey Grip Company**, 243 F.2d 836 (C.A. 5).

²⁷ "[T]he 'real motive' of the employer in an alleged §8(a)(3) violation is decisive" **N.L.R.B. v. Brown d/b/a Brown Food**

Sosa and Esquivel was unlawful. Sosa's discharge occurred shortly after he had attended and invited employees to attend a union meeting and within 1 workday after the employer had learned of its employees' organizational activities.²⁸ Sosa's discharge followed the expression of Stubblefield's dissatisfaction with Sosa's attitude as it was reflected in an employee protest and an admonition to McClain to "keep an eye on him." While the credible evidence indicates that Sosa was warned only one time in respect to the speedup of the cycling of his presser, Stubblefield maintained that he was discharged after "several warnings." Stubblefield's stretching of the truth in this regard adds weight to the inference that Sosa's discharge was of a pretextual nature as does the fact that Stubblefield, although he was asked, failed to reveal to Sosa the alleged real reason for his discharge in the post-discharge conversation. While the Respondent implied that Sosa had meddled with the timer to increase his piece rate earnings, such implication has no factual support because on the day of his discharge he was not on a piece work rate. Thus Ray must have known Sosa lacked this incentive and probably had not fiddled with the time. Moreover, if Sosa's alleged meddling had been the real reason for his discharge it is unreasonable that Ray would have permitted Sosa to operate the presser, which Ray claimed would have produced defective work, from Monday morning when Ray first observed the fast cycle until Monday afternoon at almost 4 o'clock. If Sosa's machine was out of cycle, Ray unexplainably paid it little heed, which indicates that either the presser

Store, 380 U.S. 278, 287. "It is the 'true purpose' or 'real motive' in hiring or firing that constitutes the test." **Local 357, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America [Los Angeles-Seattle Motor Express] v. N.L.R.B.**, 365 U.S. 667, 675.

²⁸ The discharge of an activist hard on the discovery of organizational activity "strongly indicates" that the discharge was unlawfully motivated. **N.L.R.B. v. Overnite Transportation Co.**, 308 F.2d 284, 287 (C.A. 4).

was not out of cycle, Ray had not observed it, or Ray considered that it was not producing defective work. Indeed there is some question whether Sosa's presser was out of cycle to the extent of producing poor quality since on the day of Sosa's discharge Stubblefield "had been observing [him] all day and he wasn't satisfied with [his] emphasis on the job." Surely if Sosa's presser had been detrimentally out of cycle Stubblefield's practiced eye would have observed it and he would have corrected it. Moreover, McClain's remark to Juarez that Sosa was "working too slow" does not indicate that Sosa was operating the presser at a detrimental speed. It is further significant that Ray caused the discharge of Sosa without accosting him with his alleged infraction or making an inquiry as to the cause of the alleged excessive speed of the presser.²⁹ Sosa was denied an opportunity to respond to the charge against him and at his post-discharge confrontation with Stubblefield, Stubblefield failed inexplicably to reveal what later the Respondent claimed was the "real reason" for Sosa's discharge. The "real reason" for Sosa's discharge was to discourage its employees' organizational activity protected by the Act. Whether the Respondent knew of Sosa's organizational activity is immaterial in fixing the Respondent's guilt since Sosa's discharge, which was without justifiable cause and inextricably a part of the unlawful discharges of Patlan and his wife, was effected by the Respondent for the purpose of discouraging organizational activity and inherently accommodated such unlawful purpose,³⁰ a fact which the Respondent must have reasonably

²⁹ "Perhaps most damning is the fact that [the employee was] summarily discharged after reports of . . . misconduct . . . without being given any opportunity to explain [his conduct] or give [his] versions." **United States Rubber Company v. N.L.R.B.**, 384 F.2d 660, 662 (C.A. 5).

³⁰ The Respondent insists that Patlan was not told the truth in respect to the reason for his discharge, because to have informed him that "he was being discharged for concerted activity . . . might have had a tendency to dissuade rank-and-file employees." The Respondent's concern has a specious ring since it would have been a dull employee indeed who would not have connected the discharges

known. Such conduct bears its own indicia of intent.³¹ The Respondent's claim that "the sole motivating factor behind Sosa's discharge was a work-related reason" is at odds with the credited record herein and is not well taken.

Esquivel's discharge likewise falls within the pattern of the Respondent's misconduct. In the light of this pattern Esquivel was a likely candidate for discharge for at least three reasons: (1) He was an activist in rounding up employees for the employees' meetings; (2) As a mechanic's helper he had full run of the plant and thus the opportunity was available for spreading the word; (3) As an inexperienced mechanic's helper there were arguably grounds for his discharge. Ray discharged Esquivel "for poor performance, including failure to have necessary

of Patlan and his wife, otherwise satisfactory employees, on December 10, 1973, to their attendance at the employees' meeting on December 6 and 7, 1973. To conclude otherwise would stretch credulity to its breaking point.

³¹ Cf. **Erie Resistor Corporation v. N.L.R.B.**, 373 U.S. 221; **Signal Oil and Gas Company v. N.L.R.B.**, 390 F.2d 338 (C.A. 9).

an employer's protestation that he did not intend to encourage or discourage must be unavailing, where a natural consequence of his action was such encouragement or discouragement. Concluding that encouragement or discouragement will result, it is presumed that he intended such consequence. In such circumstances intent to encourage is sufficiently established. [**The Radio Officers' Union of the Commercial Telegraphers Union, AFL v. N.L.R.B.**, 347 U.S. 17, 45.]

And where as, here, the employer's conduct causes an employee to suffer adversely as the result of his espousal of or adherence to a union, such conduct has the inherent effect of discouraging union activity and carries with it the implication of the required intent. Specific evidence of intent is not an indispensable element of proof of violation of § 8(a)(3) and an employer's protestation, in such circumstances, that he did not intend to discourage union adherence or activity is unavailing. Cf. **Radio Officers' Union, etc. v. N.L.R.B.**, 347 U.S. 17, 45, 74 S. Ct. 323, 98 L.Ed. 455; **Local 357, International Brotherhood of Teamsters, etc. v. N.L.R.B.**, 365 U.S. 667, 675, 81 S.Ct. 83, 85, 6L.Ed.2d 11. [**N.L.R.B. v. Merchants Police, Inc.**, 313 F.2d 310, 312 (C.A. 7).]

tools.”³² In respect to Ray’s complaint about the absence of tools, Ray admitted that the Respondent had not made it a requirement that employees have tools. Moreover, Kane had offered Esquivel the use of his tools and “at that time” the Respondent had “bought a full set of tools” which it had “for the mechanics.” Thus this reason for Esquivel’s discharge advanced by the Respondent was false.

As to the charge of poor performance, albeit Stubblefield maintained that Esquivel was discharged “after several weeks of this type of performance,” Esquivel had received no warnings nor had Head Mechanic Kane, who supervised him, complained of poor performance.³³ Indeed Esquivel had been employed for only 4 weeks which seems a rather brief period for an employee to have become proficient in the care of machines some of which were so complicated as to require Head Mechanic Kane’s attendance at a seminar concerning repair and maintenance of the Reece buttonhole machines.

It is clear from the credible evidence that Rios, upon whom Ray claimed he relied for the action taken, had not, by his own admission, observed the work of Esquivel to an extent necessary to have formed a fair opinion as to his work performance. It is doubtful whether Rios and Ray discussed Esquivel’s work performance. As noted Rios is not a credited witness nor is Ray a credible witness insofar as his testimony relates to the reason for Esquivel’s discharge.

The absence of Kane as a witness is an additional factor which contributes to a finding that Esquivel’s discharge was pretextual. Kane had approved the hire of Esquivel, and had assumed the role of his teacher. Certainly he would have been the ideal wit-

³² Respondent’s brief, p. 11.

³³ Stubblefield’s testimony is viewed as a surreptitious attempt to enhance the Respondent’s defense.

ness to have testified as to Esquivel's future worth as an employee to the Respondent.³⁴

Accordingly it is concluded that Esquivel was discharged in violation of Section 8(a)(1) and (3) of the Act.

J. The Respondent's Grant of Benefits.

The Respondent's **expedited**³⁵ grant of benefits announced December 12, 1973, contemporaneous with the discharge of five employees, activists in employee organization, was the coup de grace administered to arrest any movement of the employees toward the Union. That such was the Respondent's purpose is implicit in the language used by Stubblefield when he emphasized to the employees that since 1965 Respondent's employees had said "no" to unions and in the next breath bade the employees work together with the Respondent so that the "happy news" which he announced could be repeated again. Unmistakably "happy news" depended on no union. No employee could have missed such a clear implication.

For its coup de grace the Respondent struck with the "fist inside the velvet glove"³⁶ and its 8-year record of nonunion organization since 1966 in its plants was preserved, at least in the Carrizo Springs plant.

In that the Respondent's grant of benefits interfered with, restrained, and coerced employees in the exercise of rights guar-

³⁴ "The production of weak evidence when strong is available can lead only to the conclusions that the strong would have been adverse. Silence then becomes evidence of the most convincing character." **Interstate Circuit, Inc. v. U.S.**, 306 U.S. 208, 226. See also **Threads-Incorporated**, 124 NLRB 968, 971.

³⁵ Provoked by employee dissatisfaction and meetings Stubblefield asked Lipshie to "speed up" and "hurry this thing up a little."

³⁶ See **N.L.R.B. v. Exchange Parts Co.**, 375 U.S. 504.

anted in Section 7 of the Act, the Respondent thereby violated Section 8(a)(1) of the Act.

The Respondent's unfair labor practices herein found have furthered its policy "to combat" labor unions in its unorganized plants and gratified its antiunion animus³⁷ of long standing; "every equivocal act that was done may be properly viewed in the light of respondent's animus toward the effort to organize its men." **N.L.R.B. v. Houston and North Texas Motor Freight Lines, Inc.**, 193 F.2d 394, 398 (C.A. 5), cert. denied 343 U.S. 934.

As was noted by the Board (92 NLRB 417, 501) the Respondent's unlawful conduct "discloses a fixed purpose to defeat self-organization and its objectives."

Conclusions of Law

1. Obreros Unidos Independientes is a labor organization within the meaning of the Act.
2. The Respondent is engaged in commerce within the meaning of Section 2(6) and (7) of the Act and it will effectuate the purposes of the Act for jurisdiction to be exercised herein.
3. By interfering with, restraining, and coercing employees in the exercise of rights guaranteed them by Section 7 of the Act, the Respondent engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

³⁷ The Respondent's antiunion animus was clearly demonstrated in this case by its quick action in dismissing Patlan and his wife when it learned of Pedro Patlan's employee organizational efforts. In this regard so anxious was the Respondent to scotch its employees' organizational aspirations that it summarily fired Patlan solely upon the representations of Salgado without allowing Patlan to relate his side of the story.

4. By unlawfully discharging Pedro Patlan, Rebecca Patlan, and Jose Sosa on December 10, 1973, Alberto Esquivel on December 11, 1973, and Carlos D. Juarez, Jr., on December 12, 1973, the Respondent engaged in unfair labor practices in violation of Section 8(a)(1) and (3) of the Act.

5. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

Recommended Remedy

It having been found that the Respondent has engaged in certain unfair labor practices, it is recommended that it cease and desist therefrom and take affirmative action designed to effectuate the policies of the Act.

It having been found that the Respondent unlawfully discharged Pedro Patlan, Rebecca Patlan, Jose Sosa, Alberto Esquivel, and Carlos D. Juarez, Jr., it is recommended that Respondent remedy such unlawful conduct. It is recommended in accordance with Board policy³⁸ that the Respondent offer said employees immediate and full reinstatement to their former positions or, if such positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or other rights and privileges and make them whole for any loss of earnings that they may have suffered as a result of the discrimination against them by payment to them of a sum of money equal to the amount they would have earned from the date of their discriminatory discharges to the date of an offer of reinstatement, less net earnings during such period to be computed on a quarterly basis in the manner established by the Board in **F. W. Woolworth Company**, 90 NLRB 289, and in-

³⁸ See **The Rushton Company**, 158 NLRB 1730, 1740.

cluding interest at the rate of 6 percent per annum in the manner set forth in **Isis Plumbing & Heating Co.**, 130 NLRB 716.

Accordingly, upon the basis of the foregoing findings of fact, conclusions of law, and the entire record in this proceeding, and pursuant to Section 10(c) of the Act, it is recommended that the Board issue the following:

ORDER³⁹

Respondent Salant Corporation, d/b/a Carrizo Manufacturing Corporation, Inc., Carrizo Springs, Texas, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Discourage concerted activities of its employees or membership in the Obreros Unidos Independientes, or any other labor organization, by unlawfully, discriminatorily discharging any of its employees, or by unlawfully discriminating in any manner in respect to their hire and tenure of employment or any term or condition of employment in violation of Section 8(a)(1) and (3) of the Act.

(b) Unlawfully interrogating its employees regarding their union or concerted activities.

(c) Unlawfully granting wage and other employee benefits to its employees for the purpose of dissuading its employees from organizing and supporting said Union or engaging in concerted activities.

³⁹ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and order, and all objections thereto shall be deemed waived for all purposes.

(d) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form labor organizations, to join Obreros Unidos Independientes or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of mutual aid or protection as guaranteed in Section 7 of the Act, or to refrain from any and all such activities, subject to the union-security requirements of Section 8(a)(3) of the Act.

2. Take the following affirmative action which will effectuate the policies of the Act:

(a) Offer Pedro Patlan, Rebecca Patlan, Jose Sosa, Alberto Esquivel, and Carlos D. Juarez, Jr., immediate and full reinstatement to their former positions or, if such positions no longer exist, to substantially equivalent positions, without prejudice to their seniority or other rights and privileges, discharging if necessary any employees hired to replace them, and make them whole for any loss of pay that they may have suffered by reason of the Respondent's discrimination against them in accordance with the recommendations set forth in the section of this Decision entitled "Recommended Remedy."

(b) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this recommended Order.

(c) Post at its premises at the Salant Corporation d/b/a Carrizo Manufacturing Corporation, Inc., Carrizo Springs, Texas, copies of the attached notice marked "Appendix."⁴⁰ Copies

⁴⁰ In the event that the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELA-

of said notice, on forms provided by the Regional Director for Region 23, after being duly signed by the Respondent's representative, shall be posted by it immediately upon receipt thereof and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director of Region 23, in writing, within 20 days from the date of this Order, what steps the Respondent has taken to comply herewith.

Dated at Washington, D.C.

LOWELL GOERLICH
Administrative Law Judge

JD—299—74

Appendix

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board, after a trial in which all parties were permitted to introduce evidence, found that we discharged Pedro Patlan, Rebecca Patlan, Jose Sosa, Alberto Esquivel, and Carlos D. Juarez, Jr., unlawfully and that by

TIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

their discharges we discouraged our employees from engaging in concerted activities and from becoming members of Obreros Unidos Independientes or any other labor organization.

WE WILL offer the above-named employees their former jobs or, if their jobs no longer exist, substantially equivalent positions and will restore their seniority.

WE WILL pay them any backpay they have lost because we discharged them.

WE WILL NOT discharge any employee for the same reasons for which the Board found that we discharged the above-named employees.

WE WILL NOT unlawfully discharge employees for lawfully engaging in union activities or protected concerted activities.

WE WILL NOT unlawfully interrogate any employees with respect to their union or concerted activities.

WE WILL NOT unlawfully grant wage and other employee benefits for the purpose of dissuading our employees from organizing or supporting a union or engaging in concerted activities.

The laws of the United States give all employees these rights:

To organize themselves

To form, join, or help unions

To bargain as a group through representatives they choose

To act together for collective bargaining or other mutual aid or protection

To refuse to do any or all of these things, subject to the union-security requirements of Section 8(a)(3) of the National Labor Relations Act, as amended.

All of our employees are free to remain, or refrain from becoming or remaining, members of a labor organization.

SALANT CORPORATION,
d/b/a

CARRIZO MANUFACTURING CO., INC.
(Employer)

By
(Representative) (Title)

Dated

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material.

Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, Dallas-Brazos Building, 1125 Brazos Street, Houston, Texas 77002, Telephone 713-226-4812.

216 NLRB No. 38

JKP
D—9549
Carrizo Springs, Tex.

United States of America
Before the National Labor Relations Board

Salant Corporation, d/b/a Carrizo Manufacturing Co., Inc.,	} Cases 23-CA-4938-1 and 23-CA-4938-2.
and	
Obreros Unidos Independientes.	

ORDER

(Dated January 15, 1975)

On October 22, 1974, the National Labor Relations Board issued a Decision and Order in the above-entitled proceeding¹ in which the Board adopted the findings of the Administrative Law Judge that Respondent violated Section 8(a)(1) and (3) of the Act by discharging Carlos D. Juarez, Jr., Pedro Patlan, and Rebecca Patlan, and that Respondent violated Section 8(a)(1) when its supervisor, Bill L. McClain, interrogated Juarez on December 8, 1973, and by its grant of benefits announced December 12, 1973. Thereafter, on November 20, 1974, the Respondent filed a Motion for Reconsideration and an accompanying brief in which it moved that the Board reverse the Administrative Law Judge's findings of fact and conclusions of law in their entirety. On December 9, 1974, Respondent filed an addendum to its brief.

¹ 214 NLRB No. 21 (1974).

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board having duly considered the matter,

It is hereby ordered that the Respondent's motion for reconsideration and reversal of the Administrative Law Judge's findings in their entirety be, and it hereby is, denied as it contains matters previously considered and found wanting, and otherwise lacks merit.²

Dated, Washington, D.C., Jan. 15, 1975.

	HOWARD JENKINS, JR.,	Member
	RALPH E. KENNEDY,	Member
	JOHN A. PENELLO,	Member
(Seal)	NATIONAL LABOR RELATIONS BOARD	

² In adopting the Administrative Law Judge's conclusion that Respondent violated Sec. 8(a)(1) and (3) of the Act by discharging Carlos D. Juarez, Jr., and Jose Patlan, we accepted his subsidiary finding that Juarez and Patlan were employees rather than supervisors. Thus we did not need to speculate as to whether their discharge would have been an independent violation of Sec. 8(a)(1) had we found them to be supervisors rather than employees.

After finding Respondent guilty of unfair labor practices in this case, the Administrative Law Judge made reference to the Respondent's past conduct at other plants. It would appear, however, that the Administrative Law Judge did not rely on this past conduct in arriving at his unfair labor practice findings. In any case, in adopting the Administrative Law Judge's findings that Respondent violated the Act in the instant case, we have not given consideration to Respondent's past conduct at its other divisions.

[1*] Before the National Labor Relations Board
Twenty-Third Region

In the Matter of:

Salant Corporation, d/b/a Carrizo
Manufacturing Co., Inc.

Respondent

and

Obreros Unidos Independientes

Charging Party

Case Nos.

23-CA-4938-1

23-CA-4938-2

Maverick County Courthouse
Eagle Pass, Texas
Tuesday, March 12, 1974

The above-entitled matter came on for hearing, pursuant to
Notice, at 10:00 a.m.

Before:

Honorable Lowell Goerlich, Administrative Law Judge.

Appearances:

Richard J. Linton, Esq., National Labor Relations Board,
Twenty-Third Region, 1125 Brazos, Houston, Texas
77002; appearing as Counsel for the General Counsel.

Paul D. Rich, Esq., Box 688, Crystal City, Texas 78839;
appearing on behalf of the Charging Party.

* Numbers appearing in brackets in text indicate page numbers
of original stenographic transcript of testimony.

Constangy & Prowell, By: Alan L. Rolnick, Esq., 1900 Peachtree Center Building, 230 Peachtree Street, Atlanta, Georgia; appearing on behalf of the Respondent.

[2] Pedro Patlan, 918 Adams, Carrizo Springs, Texas; appearing on his own behalf.

Rebecca Patlan, 918 Adams, Carrizo Springs, Texas; appearing on her own behalf.

Jose Sosa, 1708 Eaton Street, Carrizo Springs, Texas; appearing on his own behalf.

Alberto Esquivel, 1304 North 11th Street, Carrizo Springs, Texas; appearing on his own behalf.

Carlos D. Juarez, Jr., 1723 North 7th, Crystal City, Texas; appearing on his own behalf.

[4]

PROCEEDINGS

11:00 a.m.

Judge Goerlich: This is a trial before the Judges Division of the National Labor Relations Board in the case of Salant Corporation, d/b/a Carrizo Manufacturing Co., Inc. and Obreros Unidos Independientes, Cases Nos. 23-CA-4938-1 and 23-CA-4938-2.

The presiding Administrative Law Judge is Lowell Goerlich. Who appears for the General Counsel?

Mr. Linton: Richard J. Linton, 1125 Brazos, Houston, Texas 77002.

Judge Goerlich: Who appears for the Charging Party?

Mr. Rich: Paul D. Rich, Box 688, Crystal City, Texas 78839.

Judge Goerlich: Who appears for the Respondent?

Mr. Rolnick: Appearing for the Respondent, the law firm of Constangy & Prowell, by Alan L. Rolnick, 1900 Peachtree Center Building, 230 Peachtree Street, Atlanta, Georgia.

Judge Goerlich: I note that there are five alleged discriminatees named in the complaint. I note some of them are Spanish names. If I mispronounce their names, it won't be on purpose. It will be because I don't know [5] any better.

We'll start with Pedro Patlan. Is Pedro Patlan present?

Mr. Patlan: Present.

Judge Goerlich: Would you state your name and address for the record?

Mr. Patlan: Pedro Patlan, 918 Adams, Carrizo Springs, Texas.

Judge Goerlich: Is Rebecca Patlan present?

Mrs. Patlan: Yes.

Judge Goerlich: Would you state your name and address for the record?

Mrs. Patlan: Rebecca Patlan, 918 Adams, Carrizo Springs, Texas.

Judge Goerlich: Jose Sosa, would you state your name and address for the record?

Mr. Sosa: Jose Sosa, 1708 Eaton Street, Carrizo Springs, Texas.

Judge Goerlich: Alberto Esquivel?

Mr. Esquivel: Yes.

Judge Goerlich: State your name for the record.

Mr. Esquivel: Alberto Esquivel, 1304 North 11th Street, Carrizo Springs, Texas.

Judge Goerlich: Carlos D. Juarez, Jr. State your name.

[6] Mr. Juarez: Carlos D. Juarez, Jr., 1723 North 7th, Crystal City, Texas.

* * * * *

[9] Judge Goerlich: Do you desire an opening statement? I think you said you would like an opening statement, Mr. Rolnick.

Mr. Rolnick: I would.

First, I would like to find out—Respondent has come here today prepared to meet the allegations of the complaint and I would like to make sure that there are no amendments or proposed amendments or revisions to the complaint.

Mr. Linton: I have no amendments to make, your Honor, or offer.

* * * * *

[10] Mr. Rolnick: Your Honor, particularly I'd like to know if General Counsel is proceeding on the theory that both Carlos Juarez and Pedro Patlan were employees within the meaning of the Act or proceeding on some alternate theory.

Judge Goerlich: You may respond if you so desire, Mr. Linton.

Mr. Linton: Well, yes, we are proceeding on the theory, Your Honor, that they were employees within the [11] meaning of the Act.

Mr. Rolnick: Your Honor, if I may make the record clear at this point, Respondent has cooperated fully with the General Counsel in his investigation of this case and has presented sworn affidavits to the General Counsel indicating Respondent's position that Carlos Juarez and Pedro Patlan were at the times material herein supervisors within the meaning of the Act and therefore excluded from the protection of the Act.

I assume from the Counsel for the General Counsel's response that he is proceeding solely on the theory that these gentlemen were employees and thus susceptible to the protection of the Act.

* * * * *

[13] Whereupon,

PERRY STUBBLEFIELD

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

Judge Goerlich: Be seated, please. Give us your full name.

The Witness: Perry Stubblefield.

Judge Goerlich: Your address?

[14] The Witness: 200 South 20th Street, Carrizo Springs, Texas.

Judge Goerlich: And your age?

The Witness: 45.

Direct Examination

Q. (By Mr. Linton) Mr. Stubblefield, would you state your capacity with Carrizo Manufacturing Company? A. General Manager.

Q. Now, that encompasses what plants in this area? A. In this area it is the plant in Carrizo Springs, Texas—Excuse me—and the three plants in Piedras Negras, Mexico.

Q. The three plants in Piedras Negras, Mexico, what do they do there? A. Those are sewing, what we call sewing plants.

Q. And the plant in Carrizo Springs, what functions does it have? A. The term we use is a feeder plant where we do the cutting of all the parts that are sewn in Mexico and then we ship out of that plant. The finishing and shipping department for the three plants in Mexico is performed in that plant.

Mr. Linton: Your Honor, I don't believe I stated, but I do want to call Mr. Stubblefield as 43(b) witness.

Judge Goerlich: Any objection?

[15] Mr. Rolnick: No objection.

Judge Goerlich: Very well. You may proceed.

Q. (By Mr. Linton) Mr. Stubblefield, I said Carrizo Manufacturing, and also the company name is Salant Corporation. That's in there, too. Is that right? A. Yes, sir. Salant Corporation is the parent company.

Q. And what is Salant & Salant? A. That is a division of the Salant Corporation.

Q. Would you tell us when the plant in Carrizo actually started up or just about when? A. We started cutting operation in Carrizo Springs, Texas in an old armory building in February of 1973.

Q. All right. Now, you are not located in the armory building at this time, are you? A. No, sir. We are in a new building that was completed in the summer months of '73 and we moved our cutting operation into the new building in July of '73.

Judge Goerlich: Is that the only function of this plant, cutting?

The Witness: Yes, sir. Cutting plus finishing and shipping.

Q. (By Mr. Linton) Now, when did you start up the finishing and the shipping? Would the shipping also include the warehouse? [16] A. Yes. We started the first of October with

the finishing department. Started initial training of the people in the finishing department the first of October and shortly thereafter that we started our shipping to other points in the country.

Q. The finishing department, does that include——

Judge Goerlich: Off the record.

(Discussion off the record.)

Judge Goerlich: On the record.

Q. (By Mr. Linton) All right, Mr. Stubblefield. I believe I was about to ask you if the finishing, does that include pressers, pressing of pants? A. Yes. Yes.

Q. I beg your pardon? A. Yes, sir, it does.

Q. All right, sir.

If you would, if you will keep your voice up so I can hear over here and maybe they can hear back there, if you can.

What product do you actually process? A. We process what we call men's work pants and boy's and girl's jeans.

Judge Goerlich: Some people call those Levi's, don't they?

The Witness: Yes, sir.

[17] Judge Goerlich: That's a competitor?

The Witness: One of our competitors.

Q. (By Mr. Linton) Who is Joaquin Salgado? That is, what relationship does he have to the Company? A. We have a contract with Joaquin to truck our cut work from Carrizo Springs, Texas to the plants in Piedras, Mexico.

Judge Goerlich: Mrs. Wright, I am aware of the fact that some of these spellings may be unfamiliar to you. They certainly are to me. If at any time you want to stop General Counsel or any other attorney and inquire as to spelling of

any of the names, you do that, because I would like for the record to reflect the accurate spelling of the names.

Go ahead, Mr. Linton.

Q. (By Mr. Linton) Is Mr. Salgado a member of the City Council? A. Yes, sir, he is.

Q. That's in Carrizo Springs? A. Yes, sir.

Q. Has he been a member for several months? A. I really don't know how long he has been on the City Council. I've lived in Carrizo Springs for about nine months and he has been on the Council all that time.

Q. On Saturday, December 8, of last year, that is of [18] 1973, did Mr. Salgado make any report to you that morning concerning information he had ascertained about a meeting of employees?

Mr. Rolnick: Objection to the use of the word "report." He is asking for a conversation, that's a different story.

Mr. Linton: Well——

Judge Goerlich: Is that what you had in mind, a conversation?

Mr. Linton: Conversation, yes.

Judge Goerlich: Very well. Assume that he used the word "conversation" instead of "report", Mr. Stubblefield, and answer the question.

A. Yes, sir, he did.

Q. (By Mr. Linton) All right sir. About what time of the morning was that and where was it and what was said? A. It was about 8:00 o'clock in the morning and it was in the, one of the offices there in Carrizo Springs, Texas plant, Carrizo Manufacturing Company in Carrizo Springs.

Q. Would that be in Hobart Graves's office? A. Hobart Graves's office. And Joaquin come in to the office and told

me that he had been in the plant, out in the plant itself, and he informed me that he had learned [19] that there had been a meeting of some of our employees there in the plant.

I asked Joaquin what the meeting was about, what the topic of conversation was during the meeting, if he knew, and he said, well, that the best he could understand from what he had learned that they were concerned about their benefits, their wages. I asked him what benefits they particularly had in mind and he said, well, he didn't know. He thought it had to do with insurance and vacation, holidays, and this sort of thing.

He told me that I—Well, I asked Joaquin where he got his information, who he had talked with, and he told me that he had talked with Pete Patlan and Pete Patlan had attended one of the meetings or that meeting that he referred to.

Q. Now, at that time did you have anyone else working there by the name of Pete Patlan other than the 8(a)(3) present in the courtroom here today? A. Not to my knowledge.

Q. That is the man you understood to be is Mr. Pedro Patlan who is here in the courtroom here today? A. Yes. That's one and the same.

Judge Goerlich: Is that the individual that Respondent claims is a supervisor?

[20] Mr. Rolnick: That is correct, Your Honor. He is one of the individuals.

Q. (By Mr. Linton) At that time did the Company have in effect at Carrizo Springs any insurance benefits or vacation benefits for employees? A. When you say insurance, the only thing we had is workmen's compensation at that time.

Q. No hospitalization or medical— A. No hospitalization.

Q. Any vacation, paid vacation, that is? A. No, sir.

Judge Goerlich: How many months had you been operating by that time?

The Witness: We had only been in the new building with our cutting operation since the latter part of July and we had only started our finishing department and shipping department in October and November.

Judge Goerlich: Very well.

Q. (By Mr. Linton) As of that time had you heard of the Obreros Unidos Independientes Union? I'm not talking about particularly in this conversation. But I am saying were you aware that it had been organizing in Crystal City?

Mr. Rolnick: Objection.

Judge Goerlich: I will allow the question.

[21] A. I was aware that they had had some union activities in the Del Monte plant in Crystal City. However, I did not know what the name of the union was.

Q. (By Mr. Linton) Crystal City, Texas is what, about 11 miles north of Carrizo Springs? A. Yes, sir.

Q. About how many people live in Carrizo Springs?

Mr. Rolnick: Objection. Your Honor, as far as I know, the Board has proceeded from time to time on small plant theories. We are obviously out of that category. I've never known it to apply a small town theory; therefore, the question is not relevant or material to this hearing.

Judge Goerlich: I'll allow the question. Continue, sir.

A. I believe the population of Carrizo Springs is something over, slightly over 5,000.

* * * * *

[24] Q. (By Mr. Linton) Mr. Stubblefield, I hand you General Counsel's Exhibit No. 2 and on that slip with the name of Pedro

Patlan it gives as reason for separation "Unsatisfactory performance on the job."

The name down there, P. Stubblefield, that is your's, is that right? A. Yes, sir.

Q. Why was Pedro Patlan discharged? [25] A. He was discharged because it was deemed that a person in supervision should not be maintained on that job when they were attending meetings with dissatisfied, allegedly dissatisfied employees without telling his superiors in the organization.

Judge Goerlich: Mr. Rolnick, do I have a situation in regard to Patlan that if I find that he's not a supervisor that the Company will have admitted a violation of the Act?

Mr. Rolnick: Absolutely.

Judge Goerlich: Very well.

Go ahead, Mr. Linton.

Mr. Linton: I take it in other words he was discharged for— Well, I'll move to strike that.

Judge Goerlich: The Company has agreed that if he is not a supervisor they unlawfully discharged him.

Mr. Rolnick: Your Honor, as the Board views it, I think you may term this reason for discharge was disloyalty, period. And I agree with you, if the gentleman was an employee, then the discharge is for reasons proscribed by the Act.

Q. (By Mr. Linton) Now, Mr. Stubblefield, with respect to General Counsel's Exhibit No. 3 which pertains to Rebecca Patlan. I'll hand you that notice. And that also shows, does it not, "Unsatisfactory performance on [26] the job." A. Yes, sir, it does.

Q. What was the reason for her discharge? A. Actually, the real reason we discharged Rebecca was the fact that we were discharging her husband because he was disloyal supervisor with the Company. Due to Rebecca's position in the office handling

matters that, typing my letters, for instance, certain records, it was quite obvious that if she had good relations with her husband she would be disgruntled and unhappy about that and I didn't feel that she would be an employee that could be trusted with that confidence after we had discharged her husband.

Judge Goerlich: Mr. Rolnick, are you claiming that this individual as a confidential employee is excluded from the coverage of the Act?

Mr. Rolnick: Your Honor, it may very well be that the employee at one time had that relationship. I'm not sure myself whether that would exclude the individual from coverage of the Act.

Judge Goerlich: Very well.

Q. (By Mr. Linton) At the time of her discharge, Mr. Stubblefield, what job function was Rebecca Patlan performing? A. At the time she was discharged she was learning, [27] being trained to do payroll work.

Q. She was going to be one of the payroll clerks? A. Well, we only have one.

Judge Goerlich: Was she it or did you have another one at that time?

The Witness: No, sir. We did not have anyone assigned to that job before Rebecca and we had intended to train her to do payroll.

* * * * *

[29] Q. I'll hand you now General Counsel's Exhibit No. 6 which is the separation slip for Carlos Juarez and on there I believe it says, "Dissatisfied work." Is that correct, sir? A. Yes, sir. That is what it says.

Q. Is that the same as unsatisfactory performance on the job, as these others we've looked at this morning?

Judge Goerlich: Off the record.

(Discussion off the record.)

Judge Goerlich: On the record.

Q. (By Mr. Linton) I think, Mr. Stubblefield, I had asked if the reason for separation—It says, "Dissatisfied work," was— Well, what was the reason for his discharge? [30] A. Carlos was discharged—He was also a supervisor. He was in the shipping area. And the foreman he worked for had repeatedly asked Carlos if he knew anything about any meetings, if he knew anything about any dissatisfied employees, and he asked him many times if in fact he did, if he would come and talk with him, who was Billy McClain, or if he didn't want to discuss it with Billy, if he would come and talk with me about it with any information he might have of dissatisfied employees. And Carlos instead of, according to Billy, instead of advising him and telling him what he knew or what he learned from the people that worked for him, he avoided him, he shunned him, and if it is anything a company can't tolerate, it is disloyal supervisors, people in responsible supervisory position who are disloyal to the people whom they work for and the company they work for.

Judge Goerlich: Does he fall in the same category as Patlan, Mr. Rolnick?

Mr. Rolnick: Yes, sir.

* * * * *

[31] Q. Well, who was training Mrs. Patlan, Rebecca Patlan on payroll? A. Hobart Graves was, in, was and is the manager of those people, their immediate supervisor.

Q. Did you have some sort of announcement there in the plant around the last day of November, let's say [32] November 30, 1973, pertaining to a new piece rate system? A. Yes, sir.

Q. Did you hold some meetings that day? A. Yes, sir.

Q. Up until that time what had been the pay system there in the finishing department for the pressers, let's say? A. All of the pressers received \$1.60 per hour up until that time.

Q. That was straight time? A. Yes, sir.

Q. Now, what kind of meetings did you hold on November 30? A. We had—We held meetings with the personnel from each operation in the finishing department explaining to them the wage structure of a piece rate system, incentive system, advising those people of the number of dozens that their production would be based on or what their base rate would be and just a general meeting to explain it to each one of them, on what the system consisted of plus the production figures that were being established for the various operations and for the various garments.

Q. About how many functions in the finishing were [33] going on the piece rate? A. Four or five jobs.

Q. Would that include leg press? A. Yes, sir.

Q. That was the work being done by Jose Sosa. Is that right? A. Yes, sir.

Judge Goerlich: At that time had you established any, or prior to that time had you established any policy regarding wages?

The Witness: No, sir. This was a start up operation actually and we were operating under start up conditions up until this time. We—As I previously said, we started pressing, employing people and training them on presses the first week in October and by the end of November we felt that the people were sufficiently trained to be sufficiently impressed, you might say, by the incentive pay plan.

Judge Goerlich: When you hired the employees, had you indicated to them or announced what their prospects for advancement would be in the nature of wages?

The Witness: We told them that, of course when we hired them, they would receive the federal minimum which is \$1.60 an hour until such time as we established piece rates on the job

and then explained to them that there [34] would be a different pay plan installed at a later time.

Judge Goerlich: Was this the first piece rates that you established on this date?

The Witness: Yes, sir. November the 30th.

Judge Goerlich: There hadn't been any piecework rate before that?

The Witness: No, sir.

Judge Goerlich: Go ahead.

Q. (By Mr. Linton) What was the base rate—Well, let me withdraw that.

When did you implement the new piece rate system? A. On the following Monday, which I believe was December the 3rd.

Q. What was the base rate under the new piece rate system?
A. \$2.05 per hour.

Q. And what does that mean in terms of what an employee—Who would earn the \$2.05? A. The person who attained what we termed 100 percent of production or the quota that was established for the particular operation. They would then earn \$2.05 per hour.

Judge Goerlich: If they didn't reach that, what would they be paid?

The Witness: They could be paid \$2.00 or \$1.90 [35] or \$1.95, whatever they earned.

Judge Goerlich: But not less than \$1.85?

The Witness: Not less than \$1.60.

Judge Goerlich: \$1.60.

Q. (By Mr. Linton) Now, were you present—

Judge Goerlich: Well, if they made more than their piecework quota would they make more than the \$2.05 an hour?

The Witness: Yes, sir. We had people that earned considerably more than that.

* * * * *

[36] Judge Goerlich: Mr. Stubblefield, did you participate in the discharges of the five employees who are mentioned in the complaint?

The Witness: I participated to the extent that I had to approve of their discharge before they were discharged.

Judge Goerlich: Well, did you personally initiate any of the discharges or was that done by some of your [37] people who worked under you?

The Witness: I personally initiated the discharge of Pete Patlan, Rebecca Patlan, and by recommendation of foreman actually on Carlos Juarez.

* * * * *

[40] Q. (By Mr. Linton) What—The first week in December what day was payday? A. Well, we try to pay on Friday. It didn't always happen on Friday because at that time they were writing the checks for our payroll in Henderson, Tennessee. Due to some malfunction of our U. S. Mail service, we didn't always receive them on the day that we were expecting them. So sometimes it was Saturday. In fact, one time they didn't get in, I don't believe, until the weekend and we had to pay off on Monday.

Q. Generally speaking though, it would be Friday? That was the intended pay day. [41] A. That was the intended payday, on Friday.

Q. Was that every week or every two weeks? A. Every two weeks.

Q. When did the pay period actually close? A. On the preceding Friday.

Q. If someone worked—— A. Or Saturday. Excuse me.

Q. Saturday? A. Yes.

Q. The pay period would close on Saturday? A. Of the previous week.

Q. Someone would receive his check generally on the succeeding Friday covering a two week period? A. Uh-huh.

Q. Now, that system subsequently changed. Is that right? A. Yes, sir.

Q. But at least at the time these five people alleged discriminatees here are concerned, that was the pay system at that time? A. Yes, sir. That's correct.

Q. The finishing foreman, Bill McClain, is he on salary? Was he on salary or did he punch a clock at the time that these people were discharged around December 10, 11, and 12? [42] A. He was on salary.

Q. Now, on December 12 you gave a speech, is that right, sir, to the employees? A. Yes, sir. Yes, sir.

Q. And you posted a bulletin board notice following that? A. Right.

* * * * *

[54] Q. (By Mr. Linton) Mr. Stubblefield, let me see if I can clarify a point or two that pertains to the speech and the announcement of the benefits and their implementation.

The benefits described in your speech of December 12, were they in fact implemented, I believe, in two stages? One stage on December 16 or thereabouts. Another stage on—Another set pertaining to insurance, I believe, on January 1, 1974. A. Yes, sir. I believe the dates you read off are correct.

Q. With respect to a statement that on December 12, 1973, Respondent announced to its employees that effective [55] December 16, 1973, the plant minimum wage would be increased to \$1.85 per hour. Is that accurate so far? A. Yes, sir.

Q. That the piecework base rate would be increased to \$2.10 per hour. Is that accurate as to that clause? A. Yes. Yes, it is.

Q. And the final one, and that effective January 1, 1974, employees would be covered by new benefits including medical insurance, paid holidays, and vacations. Now, with respect to that last clause, is there a problem with anything except possibly the paid holidays? A. No. That's all.

Q. It is the paid holidays then that there is some question about? A. That's correct.

Q. Before you gave this speech, what holidays did you have? A. We had previously posted a notice that we would have a Christmas paid holiday at Christmas time for those who were eligible for a paid holiday.

Q. And did that mean—Did the notice also say that anyone who had been on the payroll for six months? A. Yes, sir.

Q. So that's the—

All right. Well, I think the record will reflect [56] then that the holidays following your speech and the implementation were several new holidays added, is that right, in addition to Christmas? A. Well, I wouldn't say they were added. We just made the announcement to let them know what holidays would be observed by the plant.

Q. Well, then the policy was implemented to have the new holidays beginning December 16. New Year's Day, 1974 was a holiday paid. Is that right? A. Yes, sir.

Q. And that was a new holiday? A. It was the first time we had been in the plant on a New Year's Day, so we can't say it was a new one or added one. It was a fact that we had not been in the plant to observe a New Year's Day prior to that.

It might help again if I explained to you, Mr. Linton, the fact that this was a start up operation. We had only been in the building a few weeks technically so to speak as far as finishing and shipping was concerned and as is pretty well our Company

policy and most company's policy, we don't go in the first day with an announcement of what all of the benefits and all of the holidays, the insurance plans, and all of these fringe benefits that we speak of are not generally brought to light on the first day of the first week of an [57] opening of a plant. So consequently, we did delay it to this point and on November the 30th we installed piecework, our incentive pay system in the finishing room and from that point forward we started installing other pay schedules and benefits.

Q. Well, when you recruit new employees, isn't this one thing that they are interested in is how many holidays there are and whether there are vacations and the like? A. Yes. I'm sure that this is true with most people that they are interested in those things.

Q. All right.

Now, you mentioned the announcement pertaining to the Christmas holiday. Was that notice posted before the speech on December 12? A. Yes.

Q. About how long before? A. I'm not sure how long before.

Q. A week or two? A. Probably the last week in November, I think.

Q. Now, would you tell us how—What was the process on—You made the speech on December 12. Why was it you made the speech then? Would you describe the process that you went through in leading up to the speech? [58] A. Well, probably I should start back with the previous week. We had an opening celebration for the Carrizo Springs plant and the Limmit Manufacturing Company in Piedras Negras, Mexico. During that period of time we had visitors from the Sears Corporation out of their Chicago home office and out of their Dallas office, and in addition to that, we had most, a lot of our Company officials down from our corporate headquarters in New York and other places.

And Mr. Lipshie, who is the, was then the President of Salant Corporation, was one of the people who visited with us during that period of time, and while Mr. Lipshie was present in the Carrizo Springs factory, he had Mr. Bullwinkel, who is Vice President in charge of manufacturing, and myself discussed the fact that we are now in stages where we should be installing further wage plans and benefits for the employees since we had in fact, we had started on it the previous week on November the 30th by installing the incentive wage plan.

And Mr. Lipshie informed me that he would in fact the following week meet with Mr. Bullwinkel and Mr. Morris, who is Vice President in charge of engineering, and they would inform me of the wage plans that we were to use in Carrizo Springs, Texas, as well as the other [59] benefits, including holidays, insurance, vacation, and this sort of thing.

And this discussion was, took place with Mr. Lipshie, I guess it was December the 4th in the presence of Mr. Bullwinkel and myself that he would, in fact he would let me know the following week what we were to expect and to advise the employees of.

Q. All right.

Now, did you have a further conversation with him on Monday, December 10? A. Well, on Monday, December the 10th, in view of the happenings that had gone on on December the 8th, I believe, the previous Saturday when I was informed that we had people who were dissatisfied and were wondering about wages and benefits, and this is quite understandable because we had installed a piecework system, incentive pay for the people who worked on piecework jobs, so I could understand why they might be getting concerned about a person who was working on straight hourly wage and not having been informed what his future earnings or potential earnings would be. I can understand why there might be some concern.

But after the conversation I had with Joaquin Salgado in which he informed me that they had had a meeting and the em-

ployees were dissatisfied about wages [60] or wondering about wages and benefits, I called Mr. Lipshie on Monday morning and advised him of this, what I knew about it, and I asked him, I refreshed his memory or reminded him that we had discussed this the previous week and I asked him if he could kind of hurry the thing up a little bit because I would like to get to the people with a message to them advising them what we intended to pay them and also their benefits.

Mr. Lipshie told me that he would be back in touch with me on either December the 11th or the 12th, either the following day or the day after, and which, in fact, that's what he did.

Q. You say that you informed him that you had learned there had been meetings or did you tell him that you had learned there had been meetings of, with employees which they had discussed their dissatisfaction with wages and benefits? A. Yes, sir. That's the reason I called him and asked him to hurry up with what we had discussed.

Mr. Linton: Your Honor, I would invite a stipulation that Respondent's personnel records reflect that Pedro Patlan was hired October 17, 1973 at \$1.60 an hour——

Judge Goerlich: Was what?

Mr. Linton: At \$1.60 an hour.

Judge Goerlich: What did you say before that?

[61] Mr. Linton: I propose a stipulation that Respondent's personnel records reflect that Pedro Patlan was hired October 17——

Judge Goerlich: Hired. I thought you said fired.

Mr. Linton: No, sir. Hired October 17, 1973 at \$1.60 an hour as oven operator and that his rate went to \$1.67½, according to the records, effective November 24, 1973 and shown as assistant supervisor at that time. I invite that stipulation.

Judge Goerlich: Is that stipulation accurate, Mr. Rolnick?

Mr. Rolnick: Yes, your Honor, it is.

Judge Goerlich: Very well. It will be accepted.

Mr. Linton: I invite a stipulation that Carlos D. Juarez, Jr., the personnel records for him reflect that he was hired October 2, 1973 at \$1.60 an hour as a leg presser and that a pay rate change is shown for him in the personnel records, increased to \$1.75 per hour effective November 24, 1973 under the occupation reflecting being assistant supervisor.

Mr. Rolnick: So stipulate.

Judge Goerlich: Stipulate. Very well. The stipulation is accepted.

Q. (By Mr. Linton) Mr. Stubblefield, has anyone been designated to assist Bill McClain in the finishing and [62] warehouse facilities to take the place of Pedro Patlan and Carlos Juarez who had been assisting him previously? A. No one permanently. I have borrowed experienced personnel from our plants in other areas and using them in that area now.

Q. Who is that? A. The man that's—Excuse me—presently there is J. W. Freels.

Q. Is he there now? A. Yes, he is. The gentleman that was there previous to him name was T. Goodman.

Q. T. Goodman? A. Uh-huh.

Q. How long was he there? A. Oh, I don't remember. He was there over a month I know, several weeks. I don't know exactly how long.

Q. Talking about after the discharge of Patlan and the others? A. Yes.

Q. And then Mr. Freels came in as soon as Mr. Goodman left? A. Yes. I think he was there a day or two before Mr. Goodman left and I guess J. W. Freels was down earlier than that also.

Q. Has Mr. Freels been gone, absent for some time? [63] A. Yes.

Q. Well, I mean—— A. This is his third trip down to Carizo Springs, Texas to work for us.

Q. Well, after the discharge of Patlan and the others that are alleged here, when Mr. Freels came in, has he been here ever since? A. No. No.

Q. Has he been gone part of the time? A. Yes.

Q. How long has he been gone or was he gone? A. I don't know exactly how long he was gone.

Q. Just approximately. A. I wouldn't have any idea.

Q. Would Bill McClain know? A. It is possible. I doubt if he would know exactly. I don't know whether Billy would know or not.

If you are asking to substantiate the fact that there was no one helping Mr. McClain, well, I can tell you, maybe clear that up a little for you. Mr. Ray, who is sitting at the table over there, assumed added responsibilities during that period of time, if that might answer a question that you might have in mind.

* * * * *

[67] Whereupon,

JOAQUIN SALGADO,

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

Judge Goerlich: Would you be seated, please? And give us your full name.

The Witness: My name is Joaquin Salgado. I live in Car-rizo Springs.

* * * * *

[68]

Direct Examination

* * * * *

[73] Q. (By Mr. Linton) What do you recall talking with Mr. Patlan about the Saturday morning in the plant? A. When I talked to him I actually wasn't looking for him. I was looking for Mr. Stubblefield that day to sign me the papers and every-thing.

Judge Goerlich: Now, did you talk to him?

The Witness: Sir?

Judge Goerlich: Did you talk to Mr. Patlan?

The Witness: Yes, sir.

Judge Goerlich: General Counsel wants to know what you said to him and what he said to you. Will you tell us that?

The Witness: I recall him—I recall asking him, [74] I said, "Pete, what went on last night?" because another man had told me, "Ask him what went on", see? And I asked Pete what went on and he said, well, he said, we are trying to find out the benefits of the employees here and trying to find out what, you know, is our benefits.

And Pete, if I recall, Pete said, "Some people think that we are trying to form a union, but we are not." He said, "We're not

trying to form a union. We are just trying to find out our benefits." I said, "All right, Pete. If there is any way I can help you, that's how come you've got me here as a city councilman to help you out."

And then when I went back to Mr. Stubblefield that I finally found him, I told Mr. Stubblefield, I said, "There is some people here that want to find out what benefits they've got and all that." And Mr. Stubblefield said, "Well, we have already told them but we'll be glad to tell them what benefits they've got." I don't remember the name he said he got to talk to.

Q. (By Mr. Linton) All right.

Now, the evening before——

Judge Goerlich: Excuse me.

Have you told us everything that you said to Mr. Stubblefield and everything he said to you on this [75] particular subject?

The Witness: Well, I'm trying to recall because it is, you know—I'm trying to recall more or less what I talked that day with him, see?

Judge Goerlich: Very well. Is there anything else you can remember at this time that you said to him on that subject or he said to you?

The Witness: Patlan?

Judge Goerlich: Yes. About Patlan.

The Witness: Yes.

Judge Goerlich: You've told us everything you can remember that you said to Mr. Stubblefield and Mr. Stubblefield said to you about Patlan?

The Witness: Well, he didn't mention about Patlan. He said I will tell the people the benefits.

Judge Goerlich: Did you mention Patlan to him?

The Witness: To Mr. Stubblefield?

Judge Goerlich: Yes.

The Witness: I don't recall if I did or didn't. I said some people, I did.

Judge Goerlich: Very well.

* * * * *

[78]

Direct Examination

Q. (By Mr. Rich) Sir, can you tell the Judge right now as to whether or not you did not mention any names [79] next day when you went to the plant? Do you know for a fact whether or not you mentioned names? A. Well, sometimes—I didn't recall mentioning any names when I talked to Mr. Stubblefield. I just—As far as my knowledge is concerned, I just remember saying that some people want to know the benefits. I mean, I don't recall right now if I did recall that I talked to Pete, yes.

Q. Did you ever speak with anyone else at the plant about people wanting to know benefits? A. No, sir. Just to Pete Patlan that day.

Q. Besides Pete Patlan. A. Well, just—I got in—Just that Janie Lopez and he said ask Pete. That's how come I asked Pete.

Q. What about the gentlemen who were administrators? A. Not that I recall of, no. Just the benefits that I asked Mr. Stubblefield.

* * * * *

[83]

Further Direct Examination

Q. (By Mr. Linton) Mr. Salgado, did you come here under a subpoena today? A. Yes, sir.

Q. I want to hand you a document that appears to be an affidavit signed by you. Would you look and see if that is your signature? A. Yes, sir.

Q. Is this document dated December 20, 1973? A. Yes, sir.

Q. If you'll look here, look at the second page of the document, I'll call your attention to the paragraph marked number two. A. Uh-huh.

Q. If you will read to yourself the second sentence beginning in that number two paragraph. Just read it to yourself. A. Well, that is what I said. I don't recall if I have mentioned him or not.

Q. Does this reflect—Does this call to your mind now that you said anything to Mr. Stubblefield about Pete Patlan being the one that you had learned the information from? A. I might have and I might have not because I might have and I might have not because I recall talking to Pete, [84] yes.

Judge Goerlich: Now, would you take a look at that affidavit and would you read it out loud to me so it is in the record?

Q. (By Mr. Linton) Read that second sentence there. A. "I told Stubblefield that some people wanted to find out about their benefits and pays. I told him I had learned about this from Pete Patlan."

Judge Goerlich: Well, now did you or did you—Does that refresh your recollection to the point where you can tell me right now whether you did or did not mention—

The Witness: If I signed that paper that day, if I recall to it, that's it.

Judge Goerlich: That is your best recollection as of that date?

The Witness: Yes, sir.

* * * * *

[85] Whereupon,

REBECCA PATLAN

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

Judge Goerlich: Be seated, please. And give us your full name.

The Witness: Rebecca Patlan.

Judge Goerlich: Your address?

The Witness: 918 Adams, Carrizo Springs.

Judge Goerlich: And your age?

The Witness: 25.

Direct Examination

Q. (By Mr. Linton) Mrs. Patlan, are you the Rebecca Patlan that used to work for Carrizo Manufacturing? A. Yes.

[86] Q. Do you remember when your last day was there? A. December 10.

Q. The last couple of weeks or so that you were there what kind of work did you do? A. The last couple of weeks I was retraining—I was training two girls to do my job and I was being trained to do payroll work.

Q. Who was training you? A. Gary Barton.

Q. How long had you worked there? A. I started around the end of October, the last week in October. About five weeks or so. Around five weeks.

Judge Goerlich: You had been working for about five weeks?

The Witness: Yes.

Q. (By Mr. Linton) That's overall for the Company, not just in the payroll? A. Right.

Q. What days of the week did you work? A. Monday through Friday and Saturdays also except for one Saturday.

Q. You say except for one Saturday? A. Yes.

Q. You didn't work that Saturday? A. Right.

[87] Q. On the Saturdays that you worked what men did you see working in the office? A. Hobart Graves, Richard Ray, and Billy McClain, Joe Houston, a couple of times.

Q. What about Mr. Stubblefield? A. No.

Q. Did you ever see him in there on a Saturday? A. Yes.

Q. What Saturday was that? A. December 8.

Q. That's the Saturday before you were fired? A. Right.

Q. Would you tell the Judge what time you came to work and what you observed when you came to work for the first hour, hour and a half? A. On that day?

Q. Yes. On that Saturday. A. I started at 7:00 and like I say, I was being trained to do payroll so I was working with Gary Barton. And I had a question on payroll, which we were both working on, so he told me to go out into the plant and ask one of the supervisors in the cutting room about it. And as I walked I passed Mr. Graves's office and I saw him, Mr. Ray, Mr. Stubblefield, and Joaquin Salgado in what looked like a meeting, a conference of some kind.

[88] Q. About what time of the morning was this? A. I'd say between 7:00 and 7:30.

Q. Had you ever seen Joaquin Salgado there on Saturdays before? A. No.

Q. All right. Would you go ahead and tell us anything else you observed about the meeting that morning? A. Well, the

door was open when I walked past the first time and I did hear it close a while later and they were there for quite some time and Joaquin Salgado walked out and he walked into the plant. A while later he walked back in to Mr. Graves's office. Mr. Ray walked out of the office into the plant and came back a little while later with Billy McClain and they were still in meeting for, I'd say until sometime between 8:30 or 9:00 o'clock.

Q. The Ray you referred to is who? A. Pardon me?

Q. Who is the Ray you are referring to? Is he here in the courtroom today? A. Oh, yes. Richard Ray.

Q. That's the man at Counsel table here? A. Yes.

Mr. Linton: No further questions. But—I beg your pardon. I withdraw that. I do have another question.

Q. (By Mr. Linton) Have you been in the courtroom [89] during the hearing this morning? A. Yes.

Q. Did you hear a reference to a notice that had been posted pertaining to pay raises of 10 cents an hour and Mr. Stubblefield spoke, I believe, about this in relation to the cutting room? A. Yes.

Q. Do you recall anything about that, about seeing that notice? Do you recall anything about it? A. Well, I did because I typed it out and it was in regards to all employees. It had the categories of employees and it had that 10-cent raises would be given at a period of every three months and it had the maximum wage that would be made for each category.

Judge Goerlich: Do you recall the maximums?

The Witness: No. I can't.

Judge Goerlich: Were they more than \$2.10 an hour?

The Witness: No. The one thing I do recall is I believe it was something to do with the guards, security guard and janitorial would make something like \$1.95.

Judge Goerlich: Was there anything said about piecework rates on that notice?

The Witness: No.

Judge Goerlich: It only referred to hourly rates. Is that correct?

[90] The Witness: Right.

* * * * *

Cross-Examination

Q. (By Mr. Rolnick) Mrs. Patlan, have you given any statements to any other federal agency about the events that transpired at Carrizo Manufacturing? [91] A. No.

Mr. Rolnick: I think I'm ready, your Honor.

Judge Goerlich: Very well. Go ahead.

Q. (By Mr. Rolnick) Mrs. Patlan, are you any relation to Pedro Patlan who is one of the individuals involved in this case? A. Yes. I'm his wife.

Q. Do you feel that you are reasonably close to your husband, feel you love your husband? A. Yes. Yes.

Q. Do you feel that Carrizo Manufacturing Company treated your husband fairly or unfairly?

Mr. Linton: Your Honor——

Judge Goerlich: Are you raising an objection, Mr. Linton?

Mr. Linton: Well, I'll waive objection at this point.

Judge Goerlich: You may answer the question. Do you think the Company treated your husband fairly or unfairly?

The Witness: I think unfairly.

Judge Goerlich: Go ahead.

Q. (By Mr. Rolnick) When you were working in the office did you have occasion to type letters for Mr. Stubblefield? A. Yes.

[92] Q. In fact, did you type all of his letters? A. Yes.

Q. Even up to the last days that you were there? A. No.

Q. Who typed them on the last days that you were there if any letters were typed? A. Either—There was a girl named Jennifer Jackson and another girl by the name of Brenda who I was training for my job and towards the end Jennifer was doing most of the typing.

Q. How large was the office force when you were there? A. At the time I was there there were one, two, three, four, five, six, around six or seven people in there not counting Mr. Graves and Mr. Stubblefield and Ray, Mr. Ray.

Q. I see. How often would Mr. Ray be around the office in the course of a given day when he was at the plant? A. Well, he was in and out between the plant and the office.

Q. Did you come in contact with him? A. Pardon me?

Q. Would you come in contact with him? A. Yes, I would.

Q. What about Mr. Stubblefield? A. Yes. I would place phone calls or take messages for them or I'd have to find them if they weren't in the [93] office and if they had any messages they wanted given to someone else, they'd give them to me.

Q. You would handle this for him? A. Yes.

Judge Goerlich: You indicated that you were training a girl for your job. Is that right?

The Witness: Yes.

Judge Goerlich: Now, would you tell me what your job was?

The Witness: At the time——

Judge Goerlich: I'm referring now to the job that you were training this girl for.

The Witness: Right. I was considered a receptionist, girl Friday. I typed. I filed. I answered the phone. I placed calls if there were any to be placed and just in general any office work. Also, when I would finish my job I was also helping the other woman.

Judge Goerlich: Now, you were going to do a different job then. Was that right?

The Witness: Yes.

Judge Goerlich: What was that job?

The Witness: I was supposed to train for payroll, as a payroll clerk.

Judge Goerlich: What kind of work did you do there? Did you make out checks?

[94] The Witness: No. Checks weren't made there. We would figure out the, the time, how long it would take a person to do a job.

Judge Goerlich: Figure out the earnings——

The Witness: Yes.

Judge Goerlich: ——of each employee?

The Witness: Yes.

Judge Goerlich: Then that was transferred to some other place and they drew the checks. Is that the way it was done?

The Witness: Yes.

Judge Goerlich: You had to do with computing the amount that each employee was to earn from the payroll cards?

The Witness: Yes. From the payroll cards and they also had——

Judge Goerlich: Time cards?

The Witness: There were time cards and the work sheets that they filled out, the employees filled out.

Judge Goerlich: That was to be your job?

The Witness: Yes.

Judge Goerlich: Had you been informed when you were to take that job over?

The Witness: Yes.

Judge Goerlich: When were you to take over?

[95] The Witness: Mr. Graves had called me for a meeting with him, it was, well, about the end of November, where he told me that I was going to be transferred, that he and Mr. Stubblefield had had a conference and that due to the fact that they felt some of the employees couldn't understand English and the way they were explaining the payroll, that my job would be to help them understand and explain it to them in Spanish if it had to be.

Judge Goerlich: Well, when was this new job—When were you to be assigned to the new job, what date?

The Witness: There was no date given.

Judge Goerlich: At the time you were discharged you were training for the job?

The Witness: Yes.

Judge Goerlich: What portion of your time was spent on the new assignment, half of it, all of it?

The Witness: I would say maybe about three-quarters and the other quarter I was training the other girl.

Judge Goerlich: To take your place?

The Witness: My job, yes.

Judge Goerlich: Very well.

Go ahead, Mr. Rolnick.

Well, let me ask one further question.

At that time had the other girl reached the point [96] of proficiency where she would have been able to take over that job?

The Witness: I, myself, don't feel she was.

Judge Goerlich: Well, did you feel that she would be able to learn the job?

The Witness: Yes. One of the girls was.

Judge Goerlich: Were you training more than one?

The Witness: I was training two.

Judge Goerlich: Two girls?

The Witness: Yes.

Judge Goerlich: Well, in your best estimation how long would it have taken for that girl to have become proficient enough so that you could have turned all your duties over to her, a month, a year, six months?

The Witness: No. I would say at least a matter of two or three weeks.

Judge Goerlich: Very well.

Go ahead.

Q. (By Mr. Rolnick) Did you attend meetings of employees on or about December 7, 1973? A. Yes.

Q. And were these meetings designed to bring out questions or grievances that you had as far as wages and benefits? A. Yes.

[97] Q. Did your husband set up these meetings? A. Yes.

Q. He was the individual that set them up? A. Yes. After being asked by the other employees.

Judge Goerlich: Where were the meetings held?

The Witness: On Adams Street. It is the Texas Migrant Council Building.

Judge Goerlich: Is that the place that was described by Mr. Salgado?

The Witness: Yes.

Judge Goerlich: Go ahead, sir.

Q. (By Mr. Rolnick) At any time while you were employed did you indicate to any supervisor of the Company aside from your husband that—— A. He wasn't a supervisor.

Q. Well, that is a matter of dispute, Mrs. Patlan—that you were attending meetings or that you had any complaints? A. I had spoken to Mr. Graves.

Q. About attending meetings? A. No, not about attending meetings but that I wasn't satisfied.

Q. But you never mentioned to any supervisor that you were attending meetings? A. No.

[98] Q. Or that your husband was attending meetings? A. Pardon me.

Q. Or that your husband was attending—— A. No.

Q. In fact, the purpose of this meeting was to get together to discuss what to do about the grievances that you felt you had. A. I think the main purpose was to talk over grievances and then we would appoint a committee to speak to management.

Q. That's right. A. Yes.

Q. Now, at this point there was no discussion of forming a union as such.

Judge Goerlich: Well, now, so that we can get some dates set on this, Mr. Rolnick. You say "at this point."

Mr. Rolnick: I asked if the meeting was December 7, Your Honor.

Judge Goerlich: Is that the meeting that you are referring to?

The Witness: It was spoken at both meetings.

Judge Goerlich: Well, the first meeting was December 7? Let's get the date fixed here so Mr. Rolnick's questions and your answers mean something.

[99] The Witness: No. The first one was the 6th.

Judge Goerlich: 6th of December?

The Witness: Yes.

Judge Goerlich: Very well.

Go ahead, Mr. Rolnick.

Q. (By Mr. Rolnick) All right. So there were two meetings, one on December 6 and one on December 7. They were both called by your husband. Is that right? A. Yes.

Q. And during these meetings you met to discuss what you would do about your grievances? A. Yes.

Q. And as of December 8, 1973 there was no discussion or decision made about whether or not to form a union. A. There was discussion about it but no definite decision was made.

Q. Well, wasn't it in fact true that the Union had offered to help you discuss your grievances with management but had not offered to form into a union? A. We weren't at a stage where we were ready to form a union.

Q. Would you answer my question, please?

Isn't it in fact true that as of December 8, 1973 you had not decided to form a union and had not talked about forming a union? [100] A. Yes. We had talked of having one, forming a union but we weren't at a point to definitely form one. We were getting advice from the Union spokesman.

Q. You were getting advice about how to approach management on your grievances. Is that right? A. Yes.

Q. But you were not getting advice on how to form a union? A. Not at the time.

Q. So a union was not in the picture as of December 8, 1973? A. It was in the picture.

Q. Is that what you told the Labor Board? A. Pardon me?

Q. Is that what you told the Labor Board? A. I told them that we spoke of a union.

Q. You did? A. Yes.

* * * * *

[103] Q. (By Mr. Rolnick) Now, Mrs. Patlan, when you gave your affidavit to Mr. Linton did he give you an opportunity to make any corrections in it? A. Yes.

Q. Did you read it over? A. Yes.

Q. Did you find it necessary to add anything to it? A. No. I changed a few things to it.

Q. But otherwise you felt that everything in it revealed what you told him? A. Yes.

Q. And did you not tell him on December 19, 1973 that the Union, the Union representative Hector Rodriguez had attended the meeting for the purpose of helping you form a shop committee to talk to management about your grievances? [104] A. I don't remember using the words "shop committee".

Q. Well, let me hand you an eight page document with a one page attachment and ask you if that is not the affidavit that you gave to Mr. Linton? A. Yes, it is.

Q. Would you read the page that I've opened. I believe that is the final page. And read the first paragraph in there. A. Uh-huh.

Q. Have you read the entire paragraph 12 that appears on that page? A. Yes.

Q. And does it say in there that you were to form a spokesman committee to talk with management? A. Yes.

Q. And the Union would help you do that? A. They wouldn't help us form a union. They would help us afterwards, once we were ready to form for a union.

Q. Does it say that in here? A. It doesn't say that they were going to help us form a committee. It says that he suggested that we get a spokesmen committee started.

Q. And that he would help you? A. It doesn't say though that he would help us form the committee. He would help us with any other advice [105] that we needed.

Q. Does it say in there that you should decide what grievances we had and to appoint a spokesmen's committee to talk with management? A. Yes.

Q. Doesn't the very next sentence say, "Rodriguez said his Union would help us."? A. They would help us but it doesn't say they would help us form the committee.

Q. What were they to help you with, Mrs. Patlan? A. They were to help us with any advice that we needed in regards to how to go about explaining our grievances to management and also they would help us once we were ready to form the union. They would help us, tell us how to go about organizing the full union.

* * * * *

[106] Judge Goerlich: On the record.

Q. (By Mr. Rolnick) Now, Mrs. Patlan, during the off-the-record time did you have time to read the eight page affidavit that you now have in your hands? A. Yes.

Q. And is that the affidavit that you gave to Mr. Linton of the Labor Board? A. Yes.

Q. Now, having examined that affidavit, is there any mention at all in that affidavit that the Union is going to organize the employees of Carrizo Manufacturing? A. It says that they would help us.

* * * * *

[108] Q. (By Mr. Rolnick) Now, Mrs. Patlan, is it not true that as of December 8, 1973, the employees had not reached a decision to form a union? A. We had reached a decision but we weren't at the point where we were ready to actually bring the union in. We knew that we were going to get a union in there. We knew that we wanted a union in there.

Q. Does it say that in your statement, Mrs. Patlan? A. No, it doesn't.

Q. Did you attempt to tell Mr. Linton everything? A. Yes, I did.

Q. And you left that out? A. Yes. Because I thought it was self explanatory there.

Q. It was self explanatory. Were you aware that the Union had filed a charge with the National Labor Relations Board and that is why Mr. Linton was there investigating? A. Yes.

Q. And were you aware that one of the elements of the charge was that an attempt to prove that employees were [109] seeking to form a union? A. Yes.

Q. And yet you left that element out of your affidavit. Is that what you are telling us? A. Like I say, I felt it was self explanatory. Right here where it said Rodriguez said his Union would help us and we were organizing a spokesmen's committee and we were discussing our grievances.

Q. And you intended to talk to management about your grievances, right? A. Yes.

Q. O.K. But it says nothing in your affidavit about forming a union. Isn't that correct? A. Yes.

Q. Have you worked for other companies? A. Yes, I have.

Q. Has it ever happened when you were working for other companies that employees had grievances of some type? A. If we did?

Q. That you were aware of. A. No.

Q. It has never happened at all? A. Not to me.

Q. O.K. And you are not aware that these things [110] happen in industry? A. I've always worked in an office and I've always been satisfied with my work there.

* * * * *

Whereupon,

ANTONIO RIOS, JR.

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

Judge Goerlich: Would you be seated, please. And [111] give us your full name.

The Witness: My name is Antonio Rios, Jr., 214 West Baldera, Crystal City, Texas.

Judge Goerlich: How do you spell your last name?

The Witness: R-i-o-s.

Judge Goerlich: And your age?

The Witness: 33.

Direct Examination

Q. (By Mr. Linton) Mr. Rios, do you have an official capacity for any organization? A. Yes, sir. I am actual president of Obreros Unidos Independientes.

Q. If you will, don't put your hand up to your mouth. A. Excuse me.

Q. You say you are the president of Obreros Unidos Independientes? A. Yes, sir.

Q. If I just refer to that as the Union, well, then you will know what I am talking about then? A. Yes, sir.

Q. How long have you been president? A. Well, we—for the last past, I'd say about six months. Around five or six months.

Q. What is the purpose of your organization? A. The purpose of our organization is to, well, organize [112] working people and negotiate with employers on behalf of working conditions, hours, working rate pays and all that, pay rates.

Q. For whom? A. For the people. For the people employees.

* * * * *

[113] Q. Do you recall ever coming to Carrizo Springs to speak with employees of Carrizo Manufacturing? A. Yes, sir, I do.

Q. About when was that? A. Well, I think it was—I'm not too sure. It was the 7th of December.

Q. Do you remember what day of the week? A. I don't remember. It could have been a Saturday. No. I think maybe it could have been a—I really [114] don't want to say the exact day, what day it was.

Q. Were you by yourself or what? A. No, sir. There was another guy with me, another organizer, Hector Rodriguez.

Q. Is Hector Rodriguez still an organizer for your Union? A. No, sir. He is not.

Q. How long has he no longer been with you? A. Ever since I think about, maybe about the 15th or after that. Maybe I'd say about the last days of January. Somewhere in there. I really don't recall the exact—

Q. Did either you or Hector Rodriguez speak at the meeting?

A. Yes, sir, I did.

Q. Where was the meeting held? Do you recall? A. Yes, sir. It was at Texas Migrant Council on Adams Street in Carrizo Springs.

Q. How many times did you and Hector Rodriguez come for a visit? A. I went to a meeting once. He kept going to meetings. I don't remember how many meetings he attended. I mean I don't know how many meetings he attended.

Q. All right.

He had—You know of one that you attended? [115] A. I know of one that he and I went to.

Q. Do you recall what you and Hector Rodriguez spoke about at the meeting? A. Well, I—At first we were just listening to the problems, the problems they had there working, working problems, wages, their benefits, no benefits, and, well, problems they had there. And after a bit of waiting, sitting there listening to their problems, I asked them to see if I could have a word and well, what I explained to them is that we were having problems at Del Monte before and I, what I did was explain to them or talk to them about the problems we had at Del Monte. Some of the problems were similar to the problems they had. And, well, I told them that it was kind of hard, you know, to—Well, for us at Del Monte it was hard to get along with our employers there, foremen, supervisors, and all that, and that we had to form our own union to get something going for the people, for the working people, and that's about what I spoke to them.

I also gave them, well, just a brief, real brief history of our relations with Del Monte, the working conditions with Del Monte. That's about what they were having the meetings about.

Judge Goerlich: How did you happen to get to that meeting?

[116] The Witness: I—I was asked by two guys that work—I understand they work for the Texas Migrant Council that these people from Carrizo had learned that we had a union, we had already formed a union, that we were certified, recognized by the State to organize, and that these guys came to speak to me on behalf of the people to see if we could have a meeting with the people and just on behalf of their problems.

Judge Goerlich: Who were these people that contacted you?

The Witness: These people that contacted me—The very first two guys that contacted me are guys that are employed at, I think—I don't recall. I think maybe they are employed at Texas Migrant Council. I don't recall very well. They are the ones that were sent to speak to me.

Judge Goerlich: How did you happen to get to this specific meeting? Did they invite you to the meeting?

The Witness: Well, I told them that I didn't know what day I could have a meeting with them. That I would tell them when I would be available and I did call them.

Judge Goerlich: Called these two people?

The Witness: Yes, sir. And they were the ones that——

[117] Judge Goerlich: They told you there would be a meeting on such and such a date?

The Witness: No. I told them that I didn't know which day I would be available to have a meeting with the people and then I called them back the day that I was ready and then they got the people together and we had the meeting.

Judge Goerlich: They told you where the meeting would be?

The Witness: Yes, sir. They told me the place where they would have the meeting.

Judge Goerlich: And you showed up and there were employees there?

The Witness: Yes, sir.

Judge Goerlich: Go ahead.

Were those two individuals there?

The Witness: Yes, sir, they were.

Judge Goerlich: Did they work in the plant?

The Witness: No, sir. They were not employees of the plant. They are not employees at the plant. No, sir.

* * * * *

[172] Before the National Labor Relations Board
Twenty-Third Region

In the Matter of:

Salant Corporation, d/b/a Carrizo
Manufacturing Co., Inc.,
Respondent,
and

Obreros Unidos Independientes,
Charging Party.

Case Nos.
23-CA-4938-1,
23-CA-4938-2.

Maverick County Courthouse
Eagle Pass, Texas
Wednesday, March 13, 1974

The above-entitled matter came on for further hearing, pursuant to adjournment, at 9:30 a.m.

Before:

Honorable Lowell Goerlich Administrative Law Judge.

Appearances:

Richard J. Linton, Esq., National Labor Relations Board,
Twenty-Third Region, 1125 Brazos, Houston, Texas
77002; appearing as Counsel for the General Counsel.

Paul D. Rich, Esq., Box 688, Crystal City, Texas 78839;
appearing on behalf of the Charging Party.

Constangy & Prowell by Alan L. Rolnick, Esq., 1900
Peachtree Center Building, 230 Peachtree Street,
Atlanta, Georgia; appearing on behalf of the Re-
spondent.

[173] Pedro Patlan, 918 Adams, Carrizo Springs, Texas;
appearing on his own behalf.

Rebecca Patlan, 918 Adams, Carrizo Springs, Texas;
appearing on her own behalf.

Jose Sosa, 1708 Eaton Street, Carrizo Springs, Texas;
appearing on his own behalf.

Alberto Esquivel, 1304 North 11th Street, Carrizo Springs,
Texas; appearing on his own behalf.

Carlos D. Juarez, Jr., 1723 North 7th, Crystal City, Texas;
appearing on his own behalf.

[175]

PROCEEDINGS

9:40 a.m.

Judge Goerlich: The trial will be in order.

Mr. Linton: I call Mr. Richard Ray.

Whereupon,

RICHARD RAY

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

Judge Goerlich: Be seated, please. Give us your full name.

The Witness: Richard Ray.

Judge Goerlich: Address, sir?

The Witness: 945 Vista Hermosa.

Judge Goerlich: And your age?

The Witness: 39.

Direct Examination

Q. (By Mr. Linton) Mr. Ray, would you state your capacity with the Company, please, sir? A. I'm an engineer.

Q. Are you the engineer for the Carrizo plant and the Piedras Negras plants? A. Yes, sir.

* * * * *

[199]

Cross-Examination

* * * * *

[215] Q. When were the piece rates explained to employees? A. Let's see, the last week in November, 29th, I think it was.

Q. Who explained them? A. Gary Hughes.

Q. Who is he, sir? A. He is an engineer from Tennessee that Mr. Stubblefield requested from their engineering department in Tennessee. He came down and did the study on the piece rates. Primarily, he was at the plant where they had done similar work before.

* * * * *

[222] Q. (By Mr. Rolnick) Mr. Ray, you were asked on direct examination about a conversation that occurred on Saturday, December 8, 1973 with Mr. Salgado. Would you describe for us the events of that day as you recall, starting if you would with the time that you reached the plant that day and the time at Mr. Stubblefield reached the plant that day, if you know? A. J.K.

Well, normally on Saturday I don't come in at a regular time but I think on that Saturday I came in a little after 7:00. I normally go out in the plant and check around and see what's going on. Usually that is the day that we do, oh, repair work or some kind of [223] installation work that we don't normally do during regular operations. And checked with the mechanic to see what was going on for that day, how everything was going. I saw that there was a truck from Mexico in and they were getting it loaded up for Monday. And Joaquin was out there. I said hello to him and then came back in the office.

I came back in and saw Hobart and I guess Joe in Hobart's office and went in there and talked with them. Joaquin came in a little later and sat down, asked about his check. Perry came in I guess about 10 to 8:00 or something like that and then Joaquin started telling Perry about this meeting.

Q. Specifically, before you tell us about that conversation, was Mr. Stubblefield in the plant at 7:00 a.m. that day? A. No.

Q. You were present in the hearing room yesterday I believe when Rebecca Patlan testified. Is that correct? A. Yes.

Q. She testified that she saw Mr. Stubblefield in the plant talking in the office, in Hobart Graves's office right around 7:00 a.m. Is that correct or not? A. Not to my knowledge.

Q. Could she have seen him at that time? [224] A. I don't think so.

Q. What was the conversation—Were you present for the conversation between Mr. Stubblefield and Mr. Salgado? A. Yes.

Q. Were you present for the entire conversation? A. For that one, yes.

Q. To your knowledge was there one or more than one conversation? A. Well, just that one.

Q. You said that Mr. Salgado was in the room with you when Mr. Stubblefield arrived? A. I believe so.

Q. And then is that when the conversation took place? A. Yes.

Q. Would you tell the Court what that conversation was, the extent of it? A. Well, to the best of my recollection, Joaquin said, "Hey, the employees had a meeting last night. They are worried about benefits and pay raises." And Perry said, "Oh." He said, "Yeah." And he said, "Pete Patlan was the one that told me about it."

And Perry asked him, he said, "Well, what else did he tell you?" He said, well, they were worried about their benefits, hospitalization, and insurance, holidays and wages and that was basically the brunt of the [225] conversation. He asked—Well, he asked him how many was there and he said a bunch.

Judge Goerlich: Any employees' names mentioned besides Patlan?

The Witness: No, sir.

Judge Goerlich: Go ahead.

Q. (By Mr. Rolnick) During the conversation between Mr. Stubblefield and Mr. Salgado was there anything said about a union. A. No. I think Joaquin said that Pete said they weren't trying to form a union. They were just wondering about their benefits.

Q. What was Mr. Stubblefield's reaction? A. Well, he was of course concerned that we didn't know about it, that nobody had come to him and say, "Hey, how about our benefits or

insurance," or so on and wondered why one of our supervisors was out getting employees together and not coming to him with the problem.

* * * * *

[236] Whereupon,

PEDRO PATLAN

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

Judge Goerlich: Be seated, please. Give us your full name.

The Witness: Pedro Patlan.

Judge Goerlich: Your address, sir?

The Witness: 918 Adams, Carrizo Springs, Texas.

Judge Goerlich: And your age?

The Witness: 26.

Direct Examination

Q. (By Mr. Linton) Mr. Patlan, have you been here all during the hearing? A. Yes, I have.

Q. Do you recall what day it was you were discharged at Carrizo Manufacturing? A. If i'm not mistaken, I believe it was the 10th of December.

Q. What day of the week was that? [237] A. Monday.

Q. About how long had you worked there? A. I think a total of seven weeks.

Q. What kind of job did you start out on? A. Well, it consisted in the back, towards—After the material was coming out of the oven we would sort it and size it and box it, put them in boxes according to the size and styles.

Q. And what was your rate of pay when you started? A. \$1.60 an hour.

Q. For about how long did you continue the work you are talking about? A. I'm not sure but I think it was probably around two weeks, one or two weeks. I think two weeks.

Q. And then what kind of work did you, were you put on? A. I took Carlos Juarez's place.

Q. And who advised you of this? A. Pardon me?

Q. Who advised you of this? A. Bill McClain.

Q. Did you see Bill McClain here yesterday in the morning before the witnesses were excused from the courtroom? A. Yes.

[238] Q. To your knowledge did Bill McClain have charge of any department or departments there? A. I believe all of the back, the warehouse and the press departments.

Q. All right. What did he say to you when he came to you and talked about your taking Carlos Juarez's place? A. I believe he told me that I was going to be promoted to assistant supervisor and I was taking Carlos Juarez's place.

Q. All right. Just go ahead and tell us what all he said as to what you would do, where you would learn what you were to do. A. Well, he told me that for the meantime that I would be earning the same, same wages, and that Carlos would show me what to do on the job.

Q. O.K.

Now, then what happened? A. Well, he told Carlos to take me over and start showing me how to pick up the count, the production count, and I went with Carlos and he took me around once and he told me that if I needed, if I needed to know anything else, to ask him or to get in touch with Bill, to see Bill.

Q. How long did Carlos Juarez spend with you approximately? [239] A. Half hour, maybe less. Just went around once.

Judge Goerlich: What did you go around?

The Witness: We went by each employee and he showed me how to put the count down on the production sheet for each employee.

Judge Goerlich: Where did you procure the count?

The Witness: Pardon me?

Judge Goerlich: Where did you get the count or what did it come from?

The Witness: Each employee had a sheet that on each bundle of pants that they worked on he would take a ticket off and paste it on the sheet and each ticket represented so many dozens.

Q. (By Mr. Linton) You speak of a production count—

Judge Goerlich: The sheet there which the witness, which has been indicated the witness filled out, maybe if you hand him that, Mr. Linton.

Q. (By Mr. Linton) I am handing you what has been received as Respondent's Exhibit 1 and ask you if you can recognize that? A. Yes.

Judge Goerlich: Is that your handwriting on that one?

The Witness: Yes, it is.

Judge Goerlich: All right. Go ahead, Mr. Linton.

[240] Q. (By Mr. Linton) There are different colored inks on that one. A. Yes.

Q. Are the different colored inks your handwriting? A. Yes, they are.

Judge Goerlich: Is that document, was it a document like that that Carlos showed you how to fill out?

The Witness: Yes, sir.

Judge Goerlich: All right.

Q. (By Mr. Linton) And Respondent's Exhibit 2, at least for Monday, December the 10th, do you recognize that? A. Yes, I do.

Q. Is that your handwriting on that Monday? A. On Monday, yes.

Q. Of course you weren't there after that Monday. All right, sir.

Judge Goerlich: The question I asked you was where did you get the figures that appear on that exhibit? Where did the figures come from that appear on that exhibit?

The Witness: Well, the top figure would be the one, the total that they had by noon.

Judge Goerlich: You went around to each operator [241] and the operator had whatever their work they were doing in bundles?

The Witness: Yes.

Judge Goerlich: And the number in the bundle?

The Witness: The number of tickets that they had down on the sheet, I would add those up to see how many dozens they had done and that was the count that would go on the sheet.

Judge Goerlich: Very well. Go ahead.

Q. (By Mr. Linton) All right, sir.

Would you—How often was this done during a day? A. Well, the figures on that sheet, that was done twice a day but actually I would go around two other rounds that I made and that was the, those figures were not put on there. They were kept just if Mr. McClain wanted to see how much production was being done at the time.

Q. O.K. Would you just proceed in your own words and tell the Judge what you would do in the course of a day? I don't mean every specific day that you were there, but just generally

what you would do during a day while you worked there. A. The first thing I would do is I would hand each of the employees the sheets that they would place the tickets on and then I would find out, I would find out if there [242] was anyone absent and try, try to get them situated so they would get started. And if there was anything needed—If there was anybody absent, I would report that to Mr. McClain and let him know. And from there during the day, well, the only—Other than picking up the counts, I would make sure that they had whatever material they needed to work with and a lot of times they would call me that they needed a mechanic, to bring a mechanic over if they had some machinery that needed fixing.

Q. If you will keep your voice up, Mr. Patlan. It is not carrying all the way back here. A. So that in general was all I did during the day to make sure that they had whatever they needed.

Judge Goerlich: How did you determine that?

The Witness: Well, the inspectors work with staplers stapling the tickets on pants and a lot of times I would have a lot of trouble with the staplers because they wouldn't work and I had to go over there and see if I could get it working for them or I would have to get them staples. The girls that were on repair, I had to make sure that they had enough slacks, enough pants there to work with that they were repairing. Sometimes I had to bring them in from the back where they had them in the boxes, make sure that they had something to work with.

[243] Q. (By Mr. Linton) Who had—Who saw to it what work came into the department, what models, what lines, or whatever it is that would flow through the department? Who would see to it that this, what was coming in? A. I believe it was Mr. McClain. I was never aware of until they started coming in.

Judge Goerlich: How many employees did you collect production figures from?

The Witness: Well, there was four women on the buttonhole machines and the top pressers and the leg pressers and the inspectors.

Judge Goerlich: In all how many would that be?

The Witness: Well, I couldn't give you an exact figure because it would vary from day to day.

Judge Goerlich: Did you do any work at all on the machines?

The Witness: On the machines? No, sir.

Judge Goerlich: Go ahead.

Q. (By Mr. Linton) On an average day how many top pressers would there be? A. I think there was between 10 and 12.

Q. And what about leg pressers? A. Well, it is hard to say what an average day was because there was days when all, there would be a presser on the majority of the machines and other days there would [244] only be four or five pressers on it.

Q. Well, what is the least you would have and what is the most? A. Oh, let's see. 8, 9, 10, somewhere between 8 and 10.

Q. You would have between 8 and 10 normally? A. Yes.

Q. And you mentioned that this would vary. What would cause it to vary? A. Well, some of the pressers, they would be taken off the press and put back in the warehouse to help the people in the warehouse.

Q. Who would take the people off and send them back there? A. Mr. McClain or I would. I would convey the message that he had given me. He would come up to me and tell me that he needed, that he needed three or four pressers or two pressers. He would tell me to take— He would say, "Take two or three pressers from the leg department and send them back to the warehouse."

Q. What about the subject of taking time off early in the day? Did this ever come up while you were assistant supervisor there? Did it come up that people wanted off early? A. Yes, they did. They would ask me—They would tell [245] me that they wouldn't be in the next day or that they were only going to work a half day.

Q. How did you handle this? A. Well, the first time it happened I didn't know whether to say yes or no because nobody ever told me to let people off. So I went and told Mr. McClain that a certain person was going to take off and he asked me what their excuse was and I gave it to him and he said that wasn't good enough. And I said, "Well, what do you want me to tell them?" He said, well, just tell them, you know, go back and tell them that they can't take off. So I went back and I told them and after they gave me an answer I'd go right back to Mr. McClain and told him what answer they had given me and he said, "That's all right." He said, "I'll take care of it. When you ever have any problem like that," he said, "I'll handle it."

Q. Were there such things as warnings there that you were aware of? A. No written warnings.

Q. What about any verbal warnings? A. Yes. A few.

Q. Who handled those? A. Mr. McClain.

Q. Did you ever give any verbal warnings to anyone? A. Yes. I believe I did once.

[246] Q. What was that about? A. They had a—There was a few people, I think it was four employees, that were working on some Levi slacks for children. I guess they were talking or something. Mr. McClain came over and told me that the people were over there talking too much. He told me to go over there and tell them to quiet down, get some work done.

Judge Goerlich: What did you say to them?

The Witness: Pardon me?

Judge Goerlich: What did you say to them?

The Witness: I walked over there and I told them that I had been told that they were talking too much and that they were supposed to stop.

Judge Goerlich: Did you mention Mr. McClain's name to them?

The Witness: I believe I did.

Judge Goerlich: Go ahead.

Q. (By Mr. Linton) You mentioned earlier that Mr. McClain sometimes moved people back to the warehouse and sometimes told you to have them move back. What would you say to them when you went back to them and talked to them? A. Well, I would just tell them that they wouldn't be working on the press that day, that they needed them in [247] the back.

Judge Goerlich: Did you ever move people from machine to machine on your own or did you always go to Mr. McClain? Did Mr. McClain always come to you or how was it?

The Witness: There was—On the machines there was a few times I did because they would be having trouble with the press. They didn't want to—They could never get a hold of the mechanic so I would tell them to jump over to the next machine until they got somebody to fix it.

Judge Goerlich: Did you confer with Mr. McClain before you did that?

The Witness: If I could find him, yes. There were times when he wouldn't be around in the back. He might have been out in front in the office or something.

Q. (By Mr. Linton) What about overtime? How was overtime handled? A. Well, Mr. McClain would decide who was going to stay. It was usually a couple of departments, the women on the buttonhole machines, the girls on the zippers and inspectors, and of course the employees in back in the warehouse.

Q. You say he would decide who was going to stay and then what? How was it handled after that? Who would [248] notify the employees? A. I would.

Q. What would you say to them? A. Well, I would just tell them that there was a lot of production on the floor, that they would have to stay overtime and see that they got some of it out of the way.

Judge Goerlich: Are you finished with this witness, Mr. Linton?

Mr. Linton: No, sir, your Honor.

Q. (By Mr. Linton) Mr. Patlan, did Mr. McClain ever say anything to you with respect that you had any authority regarding discipline or—Well, yes, regarding discipline? A. No, sir.

Q. Anything regarding pay increases for employees? A. No.

Judge Goerlich: Did McClain ever ask any opinion as to whether you thought the employees that you took production figures from were good employees or bad employees?

The Witness: No, sir. He didn't. I believe that he could, on his own observation he knew who was good and who wasn't.

Judge Goerlich: At least he didn't confer with you about it?

[249] The Witness: No.

Judge Goerlich: Very well.

Q. (By Mr. Linton) You say Mr. McClain on his own observation. How often was Mr. McClain in the finishing department? A. He would be around quite a bit since he was in charge of the warehouse and that area and a lot of times without—He wouldn't even have to ask me. He would just have to look at the count on the sheets.

Mr. Rolnick: Objection. It is not responsive to the question.

Judge Goerlich: Very well.

Mr. Linton: Counsel does not have a standing to make that objection, your Honor. It is my understanding of the rule that only the propounder of the question can make an objection that the answer is not responsive.

Judge Goerlich: Well, there is some authority to support you, but the person who is sitting up here isn't. I read on that subject because it always disturbed me who could strike an unresponsive answer and I've concluded that if an answer is not responsive that I'll allow anyone to strike it. If you want to put the evidence in, you ask the appropriate question.

So I'll strike the answer. That way nobody can ever be prejudice.

[250] Q. (By Mr. Linton) Mr. Patlan, did you have occasion to observe Mr. McClain in the finishing department from time to time during the day? A. Yes, I did.

Q. What would you observe? A. Well, he would come through and see what he was doing, see what production was on the floor.

Q. Well, just tell us what you saw. A. He would come in and he would stop to talk to individual employees.

Q. What else? A. I can't think of anything else really.

Q. Well, did you see him have anything to do with the production sheets? A. Well, what I would generally do is I would take the count myself and carry it on a piece of paper and this way if I ever ran into him, I would show it to him. Other times he would just walk up to where I had the sheets and he would go through them himself.

Q. All right.

Would Mr. McClain ever do anything in the department?
A. Such as?

Q. Well, I am asking you. A. Not that I know of.

Judge Goerlich: Well, now, he did something in the [251] department, didn't he?

The Witness: He told me what he wanted the workers to do.

Judge Goerlich: Well, perhaps you could describe for us——

The Witness: Physical work? He didn't do any physical work, but he would oversee what was being done, what he wanted to get done.

Judge Goerlich: Very well.

Q. (By Mr. Linton) O.K.

Now, Mr. Patlan, it has been mentioned here concerning a couple of meetings on Thursday and Friday, December 6 and December 7. You——

Mr. Rolnick: Your Honor, is there some way that we can get the information from this witness without putting, giving him dates and times and places?

Judge Goerlich: Well, I suppose there is. The witness has been sitting in the courtroom, however. He certainly has heard the testimony and the dates December 6 and 7 have been mentioned. I don't see how a question of that character can be prejudicial under these circumstances.

Mr. Rolnick: I don't know.

Judge Goerlich: But I do think, Mr. Linton, if you can restrain from any leading questions.

[252] Mr. Linton: Just moving to a different subject matter, your Honor, and the witness has been here all the time. Really. I think the objection is consuming time. That's all that accomplishes.

Judge Goerlich: Well, what did Lincoln say about a lawyer's time?

Mr. Linton: All right.

Judge Goerlich: Go ahead.

Q. (By Mr. Linton) Mr. Patlan, do you know——

Judge Goerlich: The way the lawyers say it now is that it is money in the bank.

Q. (By Mr. Linton) Do you know anything about how the, how the meeting—Do you know anything about a meeting of employees a few days before you were discharged? A. Yes, I do.

Q. When was that? A. 6th and 7th of December.

Q. Do you know anything about how it got started? A. Yes, I do.

Q. Would you tell the Judge what you know about that? A. Well, a lot of the employees in the plant had complaints and they wanted, they wanted, they wanted to find a way to do something about them and they were talking about getting together somewhere and discussing some of these things. And they didn't have—They [253] couldn't think of any place where they could meet. So I told them that I knew a place where I could arrange for them to get together.

Q. All right. Keep on. Just go through the entire story as to how——

Judge Goerlich: Did you do that?

The Witness: Pardon me?

Judge Goerlich: Did you arrange it for them?

The Witness: Yes, I did.

Judge Goerlich: Talk about your arrangement. That's what Mr. Linton wants to know.

The Witness: The first meeting we had was on the 6th of December. There was, I don't know, somewhere between 20 to 30 employees present.

Judge Goerlich: What did you do to arrange for that meeting? That's what he wants to know. Contact people or what?

The Witness: I contacted people and asked them if they would give us permission, give the employees of the factory permission to meet there to discuss some of their grievances that they had.

Judge Goerlich: Who did you talk to in regard to that?

The Witness: The Texas Migrant Council. The two people that work there, Cruz Sanchez and Armando Criel, [254] was social workers in that area.

Judge Goerlich: They gave you permission to use the building?

The Witness: Yes, sir.

Judge Goerlich: You told them what you wanted to use it for, and you told them what?

The Witness: I told them that we wanted to have a meeting there, the employees of the factory because we wanted to discuss our meeting, the possibility of doing something to better their working conditions and wages.

Judge Goerlich: Did anyone go with you or did you just do this all by yourself?

The Witness: I did this on my own.

Judge Goerlich: Then after you had made arrangements for the meeting, then what did you do?

The Witness: Well, I contacted some of the employees and I told them that we had a place if they wanted to meet that night.

Judge Goerlich: Very well. Then go ahead. Then what happened next?

Q. (By Mr. Linton) Where is that Texas Migrant Council located? What is the address? A. The address is 912 Adams, Carrizo Springs.

Q. Now did you—Was there anyone there who was not an employee? [255] A. Present at the meeting?

Q. Yes. A. Well, I believe Cruz Sanchez and Armando Criel.

Q. Did anyone speak who was not an employee? A. Not that I can remember, no.

Judge Goerlich: At the first meeting everyone was an employee except one person?

The Witness: A couple of persons, I believe.

Judge Goerlich: Who were they?

The Witness: The two gentlemen that have an office in the building.

Judge Goerlich: The gentlemen that you talked to in regard to getting the building?

The Witness: Yes, sir.

Judge Goerlich: Those were the two that were present?

The Witness: Yes, sir. And I believe my sister was too.

Judge Goerlich: Your sister was there too?

The Witness: Uh-huh.

Judge Goerlich: Those were the only ones who were not employees of the Company. Is that right?

The Witness: Yes, sir.

Judge Goerlich: All right.

Mr. Rolnick: Your Honor, does the court reporter [256] have the names of the two gentlemen?

The Reporter: I will get the correct spelling during a recess.

Judge Goerlich: Why don't you get them from him now?

The Reporter: O.K.

The Witness: Cruz, C-r-u-z, Sanchez, and Armando, A-r-m-a-n-d-o, Criel, I believe is C-r-i-e-l.

Judge Goerlich: The gentlemen that you referred to, do you know anything about them other than just their names?

The Witness: Yes, sir, I do.

Judge Goerlich: What are they connected with?

The Witness: They provide social services for the community.

Judge Goerlich: Do they work—Who do they work for?

The Witness: Texas Migrant Council.

Judge Goerlich: Is that some kind of a state agency or——

The Witness: I believe it is, yes. Texas Migrant Council.

Judge Goerlich: Very well.

Q. (By Mr. Linton) Now, you mentioned that there was another meeting. [257] A. Yes. The following day.

Q. And——

Judge Goerlich: How was that arranged for?

The Witness: Well, we got together that first night and we came to realize that none of the employees present, myself or anybody else, knew anything about how to start organizing or anything. So we left it that night that what we needed to do was to get more people to be present at the meeting and in the meantime we would contact somebody who would help us to give us some kind of advice or how to go about starting to organize.

Judge Goerlich: How many were at this meeting?

The Witness: I'm sure of exact figures. Somewhere, I think, 20, 25, 20 to 25, 30. I'm not sure.

Judge Goerlich: Now, who arranged for the meeting the next night? Did you do that too?

The Witness: Well, the employees that were there, quite a few spoke up and some of them decided that that is what we needed to do, that in order for us to do anything right that we needed more employees from the factory so that they would be there and could be aware of what we were doing. We didn't want to do it on a small basis and then go back and the other employees say, "Well, we didn't know anything about it," or "We don't [258] even know what you are doing and you are doing it."

Judge Goerlich: All right.

Go ahead, Mr. Linton.

Q. (By Mr. Linton) O.K. Tell us what happened then at the next meeting. A. Well, after the first meeting, myself and my wife and Armando and Cruz went to Crystal City. We contacted Hector Rodriguez and told him, we told him what we needed, what our problems were and what we needed. He said he would be—That he could—He would be able to come down the next night, if we were going to have a meeting, with, I believe Mr. Antonio Rios, representative of the Union, and that they might be able to give us some advice or information on how to go about it.

Judge Goerlich: So you and your wife and who else went?

The Witness: Cruz Sanchez and Armando Criel, the two gentlemen from the Texas Migrant Council.

Q. (By Mr. Linton) And, well, did they come down? A. Yes, they did. They were down the following night and——

Q. What day of the week was this? A. I think it was Friday. I think it was Friday night.

And, well, we had started going over some of the same things and what we had to do and then Mr. Rios and [259] Mr. Rodriguez asked permission, if we would allow them to speak, and they more or less gave us some of the information of——

Mr. Rolnick: Objection to "they". It is not specific, your Honor.

Judge Goerlich: Well, refer to which one. Which one spoke, Mr. Rodriguez or Mr. Rios?

The Witness: Well, both the gentlemen did but I think Mr. Rios spoke first.

Judge Goerlich: Tell us what Mr. Rios said.

The Witness: Well, he gave us—He talked about the Union that they had at Del Monte and some of the problems that they had when they first organized the Union and what we had to do in order, if we wanted to be successful in it. That we had—Some of the things like getting to the majority of the employees and talking to them, making sure that everything, that we did it the right way.

Judge Goerlich: How about Rodriguez? What did he say?

The Witness: Well, he explained more or less to us that what we were doing we had to do right away because as soon as the Company found out, something was going to happen, you know, something was going to happen. That if we were going to—If we had intentions of [260] organizing something, it had to be right away and not wait days or weeks before we started to do something, that it would have to start right now and go through until we finished it.

Judge Goerlich: Go ahead, Mr. Linton.

Q. (By Mr. Linton) At the meeting that the Union representatives attended, were there any Union authorization cards passed out or signed? A. No, sir. What we intended to do at those meetings first was organize the employees themselves before we started talking about Union or anything else. They were there to give us information and that's all we wanted at the time.

Judge Goerlich: Was there arrangements made at that meeting for another meeting? What were your intentions as to the future?

The Witness: Well, what we intended to do——

Judge Goerlich: As expressed at the meeting.

Mr. Rolnick: Your Honor, may I pose an objection?

Judge Goerlich: Yes.

Mr. Rolnick: The answer to the last question before you just asked this one, the witness gave us, I believe, what went through his mind as opposed to what was said and he did the same thing when you just asked that subsequent question. I'd like to point that out for [261] the record and perhaps we could tell the witness only what was said.

Judge Goerlich: Yes. I am interested only in what was cited by the group there that evening that they—Was there any determination made with the group as to what should happen in the future?

The Witness: Yes. What was decided was that they were going to wait until the following Friday to see how their checks came out because that was, I believe that was the first week that the new pay system was going to be in effect and their check would reflect that system and they wanted to wait until then to see how things go.

Judge Goerlich: Very well.

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[267] Q. (By Mr. Linton) Mr. Patlan, coming up to Saturday, December 8, did you work that day? A. Yes, I did.

Judge Goerlich: Mr. Patlan, before we leave the meetings, I would like to ask you this question if I may.

The Witness: Yes, sir.

Judge Goerlich: Did you indicate to anyone connected with supervision that these meetings had been held or that you were present at any of the meetings?

The Witness: No, sir.

Judge Goerlich: Go ahead.

Q. (By Mr. Linton) On Saturday morning, did you say you worked that morning? A. Yes, I did.

Q. You know Joaquin Salgado, the man who was here yesterday? A. Yes.

[268] Q. Directing your attention to that person, did you have any conversation with him that morning concerning something other than work? A. Yes. As a matter of fact, it was in the morning sometime when I was in the back and I saw Mr. Salgado walking in from the warehouse where the trucks were and as I looked over to him he waved me over. So I went over there and he started, he asked me if we had had a meeting the night before and I told him yes, we did. And he asked me—He wanted to know what they were about. So I, I just proceeded to tell him that the meeting had been held by some of the employees in the Company and they had some grievances they thought were justifiable and we were discussing them to see what we could do about them.

And he—I'm trying to think exactly what was said. Well, I started—I started to explain to him exactly, exactly—He asked me exactly what we wanted and I went into explaining to him what we wanted and what we——

Judge Goerlich: Tell us—Give us your best recollection of the words you used, the words he used, or the substance of what you recall it was.

The Witness: Well, he—I—I explained some of the grievances to him. We were speaking in Spanish and sometime in the middle of our conversation Mr. Ray walked [269] up, walked up and he was going to say something to Mr. Salgado. And I was a little—I was a little disturbed at the time because I couldn't, because Joaquin couldn't see why we were doing this. He had told me that he could help us a lot more, that we should have gone to him, that he could help us a lot more than by us trying to have meetings or trying to organize.

So I was a little upset at the time. I didn't really pay attention to Mr. Ray when he walked up but he listened in to quite a bit of our conversation before he walked away and——

Judge Goerlich: Does Mr. Ray understand Spanish?

The Witness: I believe he does, yes.

Judge Goerlich: You were talking in Spanish?

The Witness: Yes, sir.

Judge Goerlich: What grievances did you tell——

The Witness: I told him the wages were ridiculous, a \$1.60. A gallon of milk costs \$1.80, \$1.90 a gallon and we were getting paid \$1.60 an hour. I couldn't—I told him that we couldn't see how we could support a family of two or three on that money. And some of the other things were the mandatory overtime. There were people in one section that wanted to work overtime and they weren't given any and there were people in another section that didn't want to work overtime and they were [270] made to work overtime otherwise they would be fired, or they were fired, as a matter of fact.

Judge Goerlich: Is this what you told Mr. Salgado?

The Witness: Yes, I did.

Judge Goerlich: Did you mention anything about the Union to him?

The Witness: I told him that the reason for the meetings was that we were organizing, that we wanted to have some kind of a committee, form some kind of a committee or a union to present our grievances. And that is when he told me that—He just came out and said, "We don't want a union in here."

Judge Goerlich: How long was Mr. Ray standing there?

The Witness: I couldn't exactly be sure, but he listened in to quite a bit of the conversation.

Judge Goerlich: As long as a minute?

The Witness: Maybe a minute.

Judge Goerlich: Go ahead, Mr. Linton.

Mr. Rolnick: Your Honor, I think the record should be clear that I am not objecting to this because we have denied the agency of Mr. Salgado. Otherwise, it is hearsay, clearly, if he is not shown to be an agent.

Judge Goerlich: Well, yes. Your point is preserved in the record.

[271] The Witness: May I say something now? I believe I am here——

Judge Goerlich: Just a minute. Do you want to speak as a witness now or as a party?

The Witness: Well, I guess. I just feel that I should say something.

Judge Goerlich: You have a right to speak as a party to this proceeding. Do you want to speak as a party or do you want to answer something as a witness?

The Witness: I'll speak as a party.

Judge Goerlich: All right. You may make a statement as a party.

The Witness: I am here under oath as God as my witness. All I am seeking is for the truth to come out here and I've noticed that sometimes some of these facts tend to cover up the truth because at the time that some of these conversations took place, we were never really aware of what we were doing or that we were going to be here to begin with.

Judge Goerlich: Very well. That's the statement you want in the record?

The Witness: Yes, sir.

Judge Goerlich: Very well. It may stand as a statement of this individual as a party.

Q. (By Mr. Linton) Mr. Patlan, let me go back to the [272] meetings a moment. You mentioned—You say you mentioned to Mr. Salgado that one of the things that you wanted to do was form a committee. Was that subject brought up at either one of the meetings? A. Yes, it was. As a matter of fact, one of the meetings we did elect a committee. We got a spokesman from each one of the departments.

Judge Goerlich: Mr. Rolnick, the portion of the conversation at which the witness claims Mr. Ray was present obviously would be hearsay, but nevertheless admissible hearsay since it was stated in the presence of Mr. Ray. The witness indicated that Mr. Ray was present.

Go ahead, Mr. Linton.

Q. (By Mr. Linton) And what was said at the meeting with respect to the committee or the purpose of the committee? A. Well, the reason we elected—We wanted a spokesman from each department because some people worked in the presser department, others in the warehouse. The people that worked in the warehouse weren't aware of the things that were happening in the cutting section. The same with the cutting section and buttonhole machines. So what we wanted was a spokesman from each department that knew exactly the type, what work was being done there and [273] what problems they might have there.

Q. All right. What was the—Was there an ultimate goal expressed, what the committee was to do or anything? A. Well, the committee was—The large percent of the people that work there are migrant people and a lot of times when you mention union to them—

Mr. Rolnick: Objection. It is not responsive, Your Honor.

Judge Goerlich: Very well.

Mr. Linton: Well, I think the witness is in the process of giving his answer and explaining what or why they were to do something. I'm satisfied up to this point.

Mr. Rolnick: Well, General Counsel may be satisfied, Your Honor, but certainly we are not supposed to sit here and listen to a lecture from the witness.

Judge Goerlich: Would you read the question back, please?

(Whereupon, the reporter read back the pending question.)

Judge Goerlich: Why don't you restate the question, Mr. Linton.

Mr. Linton: All right, sir.

Q. (By Mr. Linton) Mr. Patlan, was there any expression [274] at the meeting concerning the goal or what the committee was to do, who they, who the committee was to talk to or whatever? A. They were supposed to inform the people in each of those departments, since they were aware of who was working in each department, they were to inform them to exactly what was trying to be accomplished and to try to get the majority from each department to come to the meetings.

Judge Goerlich: Was this decided at the second meeting or the first meeting?

The Witness: This was at the second meeting, I believe.

Judge Goerlich: How many people were at the second meeting, approximately?

The Witness: Oh, 20, I think.

Judge Goerlich: O.K.

Q. (By Mr. Linton) In answer to the question by the Judge earlier, you said there was going to be another meeting on December 17, I believe, or at least the next Friday. A. Yes. The following Friday.

Q. Now, was there any discussion as to, at this second meeting on Friday as to whether the committee at some point was going to speak with anyone? [275] A. No. We just left

that that we wait to see, until after payday to see what the other wages came out and from there we would meet and see what we could do. But the committee was not told, they were not told that they had to do any specific thing. That we just wait until the following Friday.

Judge Goerlich: You keep referring to the word "committee." Was there a committee, a certain number of individuals named?

The Witness: There was four individuals named, yes.

Judge Goerlich: And who were those individuals?

Mr. Linton: Mr. Rolnick may not want the names.

Judge Goerlich: Who were the people named on the committee? Were you on the committee?

The Witness: No, sir.

Judge Goerlich: Who was on the committee?

Mr. Rolnick: Your Honor, may I object to the question? You can overrule me if you want, but I think to protect my record I've got to object.

Judge Goerlich: Well, perhaps it would be better to state it otherwise. I'll put it this way, which I think will satisfy you.

Was Pedro—You were not on the committee. Was your wife on the committee?

[276] The Witness: No, sir.

Judge Goerlich: Was Sosa on the committee?

The Witness: No, sir.

Judge Goerlich: Was Esquivel on the committee?

The Witness: No, sir.

Judge Goerlich: Was Juarez on the committee?

The Witness: No, sir.

Judge Goerlich: Very well.

Q. (By Mr. Linton) Mr. Patlan, coming to Monday, the day that you were discharged——

Judge Goerlich: Oh, before you ask that question I would like to ask you one other question about Mr. Salgado.

Did you speak to him more than once——

The Witness: No, sir.

Judge Goerlich: ——that day?

The Witness: No, sir. The conversation we had that morning was the extent of it.

Judge Goerlich: Very well. Go ahead.

Q. (By Mr. Linton) Coming to Monday, the day that you were discharged, December 10. I would like to ask you if you observed anything unusual in the plant that day. Now, you were discharged that day but I'm not talking about that. I'm talking about prior to that. Did you observe anything unusual that day? [277] A. Yes, I did. I knew there was—I knew there was something wrong because I didn't see Mr. McClain around. He didn't—He would usually be around sometime in the morning to see what had to be done or what was going to be done and I noticed that, as the day went on I noticed that he would go by, or I noticed him in the area and I noticed that he was avoiding me and usually he would come up to me and say something. Sometime during that day I also noticed Mr. Stubblefield come back and stand with Mr. McClain and they were over on the side talking and looking over the employees, over towards me and some of the other employees.

Q. Towards which employees? A. The press—At the leg pressers. Well, towards the general area of the leg pressers and where the inspectors are.

Q. Did you observe the work that Jose Sosa was doing that day? A. Yes, I did.

Q. What work was he doing that day? A. He was repressing.

Q. I believe Mr. Ray answered this but in case he didn't. Does a person draw incentive pay for repressing?

Judge Goerlich: The answer is that he does not. Mr. Ray said that he did not. That's the finding I'll make [278] unless you have evidence to the contrary.

Mr. Linton: No, sir. That is my understanding.

Judge Goerlich: Very well. Proceed.

Q. (By Mr. Linton) All right, sir.

Coming up then later in the day, how were you advised of your discharge? A. Well, it was just before, just before time to go home Mr. McClain walked up to me and told me that Mr. Harpo Garcia wanted to see me in his office, or I believe he said go to Harpo's office. I think that is what he said.

And as we were walking, I believe he told me something like well, I'm afraid we're going to have to let you go. And I asked him, I said, "Does that mean I'm fired?" And he said, "Yes, it does."

I asked him if he could give me the reason why and he just told me that, well, he said, "Well, you just didn't work out." I said, "Well, can you be a little bit more specific? What did I—You never gave me any warnings. You haven't told me that I wasn't doing the job."

I think by that time we had reached Mr. Garcia's office and we went inside and I, I told him, I said, "Could you give me something, be specific about why?" And he said, well, he said the women on the buttonhole [279] machines, they are talking too much and not doing enough work. And I told

him, I said are you sure that's not, it's not because of faulty machinery and he said, well, that may be true, but, he said, it is nothing personal. We just have to let you go.

Mr. Rolnick: Your Honor, who is "he"?

Judge Goerlich: Who made these remarks to you?

The Witness: Mr. McClain.

Judge Goerlich: Well now, you carried me through that too rapidly and maybe you carried Mr. Rolnick through it too rapidly.

As I understand it, Mr. Garcia was the one who came to you——

The Witness: No. Mr. McClain did, and he told me that he wanted—I can't remember if he said Mr. Garcia wants to talk to you in his office or he said would you go—Just told me to go to Mr. Garcia's office and he was walking with me towards his office.

Judge Goerlich: And he made these remarks to you?

The Witness: This is when he informed me that I was——

Judge Goerlich: These are remarks Mr. McClain was making to you as you went toward Garcia's office?

The Witness: Yes.

Judge Goerlich: Very well. Did you get into [280] Garcia's office?

The Witness: Yes. We got in there and that's when I told him, when he told me about the women talking on the buttonhole machines.

Judge Goerlich: Who told you that?

The Witness: Mr. McClain did.

Judge Goerlich: All right. Go ahead. Finish it off. What happened then?

The Witness: Then we stood there for——

Judge Goerlich: Was Garcia there at the time?

The Witness: Yes. He was on the phone but he wasn't talking. He was just holding the phone. He never said anything.

Judge Goerlich: Did he hear the conversation, you think?

The Witness: I believe he did, yes.

Judge Goerlich: How far was he from where you were?

The Witness: He was sitting right—Well, I was sitting in front of his desk and Mr. McClain was standing on the side and he was behind, Mr. Garcia was behind his desk.

Judge Goerlich: Now, have you told us everything Mr. McClain said to you while you were in there?

The Witness: Yes. That's about it.

Judge Goerlich: Go ahead, Mr. Linton.

[281] Q. (By Mr. Linton) There was one other point I wanted to cover with you, Mr. McClain. Mr. McClain.

Mr. Patlan.

Would there be from time to time new employees brought into the finishing department? A. Yes. On a few occasions there were.

Q. What—How would you learn about it? A. Not until they were brought over to me, usually by Mr. McClain or Mr.—Well, Mr. Garcia would bring them to the back and he would take them over to Mr. McClain and tell him that he had two or three employees that he needed and then Mr. McClain would send them over to where I was at and tell me to put them on inspecting or hanging up slacks.

Q. You say Mr. McClain would tell you where to put them?
A. Yes.

Judge Goerlich: Who would instruct them in their job if anybody?

The Witness: I wouldn't because I didn't know any of the jobs.

Judge Goerlich: Any further questions?

Mr. Linton: No, sir. I'll pass the witness.

* * * * *

[282]

Examination

(By Judge Goerlich)

[283] Q. I take it then you wouldn't be able to tell me whether or not you ever observed Sosa operating his press faster than five seconds. A. No. As a matter of fact, some of the other employees would tell me that it was going up too fast or it was staying down too long but I couldn't tell the difference so I would just tell them to go over on another machine until we got a mechanic to fix it.

[286]

Direct Examination

Q. (By Mr. Rios) Mr. Patlan, did the supervisor that changed you to Mr. Juarez's position tell you that he would pay, give you the supervisory pay or increase in pay since you were doing, going to do a supervisory job? A. He just told me that for the meantime I would receive the same pay but as we went along that we would probably get a raise if things, if I worked out.

Q. Did he mention any specific rate? A. No. No.

Q. How many employees would get, would get over \$1.60, or that is \$2.05, that's what they were paying as I understand for pressing the amount required to earn \$2.05? A. I never really got to find out. I really don't know.

Q. Were there any employees that went over \$1.60 for pressing the amount required to earn \$2.05? A. I imagine there was, yes. Over \$1.60, I imagine there was.

Q. What was the wages between \$2.05 and \$1.60 if there was some for pressing you say over \$1.60? A. For pressing?

[287] Q. Yeah. For piecework. A. Over \$1.60?

Q. Yeah. A. I wouldn't know the exact.

Q. Do you know of any employees that had taken grievances to management prior to this, you and the other discriminatees here being fired, taken grievances to management that have been disciplined or fired because they had taken their grievances to management? A. Yes. On a couple of occasions they did.

Mr. Rolnick: Your Honor, I must object.

Judge Goerlich: Objection sustained.

Q. (By Mr. Rios) You know of two cases, you say? A. Two cases——

Judge Goerlich: I sustained the objection and I strike the answers. I don't think that is material.

Mr. Rios: I think that is about it.

Judge Goerlich: What?

Mr. Rios: I think that is all I have to ask him.

Judge Goerlich: Very well.

Mr. Rolnick, do you want a short recess before you interrogate?

* * * * *

[288] **Cross-Examination**

* * * * *

[300] Q. Let's talk for a moment, Mr. Patlan, about the meeting that you had on December 7, 1973. You testified, as I un-

derstand it, and please correct me if I am wrong, that you were attempting to organize the employees themselves and get information. A. (The witness nodded affirmatively.)

Q. Is that correct? A. Yes.

Q. You also said that you decided to wait until Friday to see how the checks would come out. A. Well, it wasn't I that decided that. It was the employees that decided.

Q. I see. Is that in your affidavit, Mr. Patlan? A. I don't know, sir. I can't remember.

Q. You said that on that meeting the purpose of it was to decide how to go about starting to organize. Is that correct? A. Yes.

Q. Organize what, Mr. Patlan? A. Well, at first what we wanted to do was form some kind of committee of the employees to present the grievances to management.

Q. As of the time that you were discharged, Mr. Patlan, was there an intent at that moment in time to form a union? [301] A. I don't quite understand your question.

Q. As of the time you were discharged had the employees reached a decision to form a union? A. I don't know. I never got—We never had any more meetings after I was discharged.

Q. In fact, is it not true that as of the time you were discharged the only organization among the employees was a meeting to discuss how to go about presenting grievances to management? A. Yes.

Q. There was no talk about a union. A. There was quite a bit of talk about the union.

Q. But the people were not trying—you were not trying to get people to join the union. A. I was trying?

Q. You were not trying to get people to join the union. A. At the time all we wanted to do was—

Q. Yes or no? A. State that again, please.

Q. Were you or were you not trying to get people to join the union? A. Not at that time, no.

* * * * *

[306] Q. (By Mr. Rolnick) Now, you attended a meeting on Friday, November 30 held at the Company to explain the new piece rate system, didn't you? A. Yes.

Q. Were there one or more than one meeting held that day? A. Well, each department was taken in there individually.

Q. When you say each department, did they take in the leg pressers separately or did they take in all pressers [307] at one time? A. I believe the top pressers separately and then the leg pressers.

Q. And then the leg pressers.

And did they take in the inspectors? A. I believe they did. I'm not—I can't be certain.

Q. They were a separate group too, weren't they? A. Yes.

Q. Did they take in buttonholers? A. Yes.

Q. Take in zipper girls? A. Yes.

Q. Each of them in separate groups, right? A. I believe so, yes.

Q. And Mr. Gary Hughes was down from Tennessee to explain the system. Is that right? A. The engineer? Yes.

Q. Yes.

Who else attended these meetings beside Mr. Hughes? I take it he spoke at each of the meetings. Is that right? A. Yes.

Q. Were there any other individuals who were present at all of these meetings? A. I believe Mr. Stubblefield, Mr. Graves, Mr. McClain. [308] I don't—I think that was all. All I can remember.

Q. How many of these meetings were you present for? A. I believe all of them.

Q. In other words, Mr. Stubblefield, Mr. Graves, Mr. McClain, and yourself were present for all the meetings. Is that your testimony? A. Yes.

Q. Was there any other employee or supervisor of the Company who attended all those meetings? A. Other employee or supervisor?

Q. Right. Aside from the four people that you mentioned, McClain, Hughes, Stubblefield, and yourself, and Hobart Graves. I guess that is five. Was there anyone else who attended? A. I'm sorry. I didn't catch the names.

Q. All right. You said Graves attended all those meetings, right? A. Uh-huh.

Q. Stubblefield attended all those meetings to the best of your recollection. A. Uh-huh.

Q. Naturally, Hughes attended all those meetings. A. Yes.

Q. McClain attended all those meetings. A. Yes.

[309] Q. And I forget if I asked you Hobart Graves attended all those meetings. A. Yes.

Q. You attended all those meetings? A. Uh-huh.

Q. Was there anybody else that attended all those meetings? A. I believe Mr. Ray.

Q. Mr. Ray.

Was there anyone else? A. No. I believe not.

Q. Specifically, did any employee of the Company aside from yourself attend all those meetings? A. No.

Q. Did any employee of the Company attend more than one meeting? A. No. They work in separate departments.

Q. Now, when we say separate departments, basically the finishing department was the people that were spoken to in groups according to job classifications, right? A. Yes. Right.

Q. Not the shipping department or warehouse employees. A. No. The finishing.

Q. Just the finishing? A. Uh-huh.

[310] Q. And after this meeting the employees became unhappy about the piece rate system. Is that right? A. Well, you say they became unhappy, but I don't think they ever understood exactly how they were getting paid.

Q. All right. They had questions about the piece rate system? A. Yes.

Q. Did they ever express concern about whether they would make production? A. Uh-huh.

Q. They mentioned this to you, did they not? A. Yes.

Q. You never brought this to management? A. Mr. McClain was aware of it also.

Q. Did you tell Mr. McClain about it? A. Mr. McClain, after some of the meetings some of the women asked him that they didn't understand and he stood there and figured out some of the, figured out for them how they were——

Q. After this you were aware that still some other employees were unhappy about it? A. Uh-huh.

Q. Did you ever tell Mr. McClain about that? A. No, sir. I don't believe I did.

[311] Q. About how many employees were there in the finishing section? A. 30, 35.

Q. Could there have been as many as 48 while you were there? A. A possibility. I really can't remember exactly.

Q. But you would say at least 35? A. At least. Somewhere around there.

Mr. Linton: I couldn't hear the answer.

The Witness: He asked me if there was at least 35 and I said probably, yes.

Q. (By Mr. Rolnick) Who was the supervisor over those 35 people? A. Mr. McClain.

Q. All right. When he wasn't there who was in charge of those 35 people? A. I believe I was.

Q. Now, you—Was this the first time you had ever worked in a garment plant? A. Yes, it was.

Q. Mr. McClain told you after he made you assistant supervisor that he was going to get you a pay raise, didn't he? A. I believe he said later on.

Q. And later on he did get you a pay raise, didn't he? [312] A. It never appeared on my check.

Q. It didn't appear on your last check? A. No, sir. I don't believe it did.

Q. Are you certain of that? A. I said I don't believe it did.

Q. What was Mr. McClain's job? A. Supervisor, I believe.

Q. Over the finishing and the warehouse, right? A. Yes.

Q. How many people did they have in the warehouse? A. I really don't know. I never counted them.

Q. 20, 25, 30? A. Well, when they started putting up the shelves there was quite a few back there.

Q. All right. You were there when they were putting up shelves? A. Uh-huh.

Q. About how big an area would you say the finishing area is? A. I have no idea. I'm not very good at estimating.

Q. Well, from standing in one spot can you see the entire finishing area? A. Yes.

Q. Now, is there any spot where you can stand in the finishing area and see the entire shipping area as well? [313] A. Well, there is a lot of things piled up back there so if somebody is standing behind it——

Q. That's right. There are bins and you can't see all the area of the shipping area, right? A. (The witness nodded affirmatively.)

Q. Isn't that why Mr. Carlos Juarez was back in the warehouse, the shipping area? A. I don't follow your question.

Q. Well, aren't you aware that Mr. Juarez was in charge of the shipping area? A. Yes.

Q. Now, part of your job duties, part of your responsibilities were to take care of the job, see that it ran right? A. See that they had anything they needed.

Q. O.K. Did you have a bundle boy? A. Do you mean to carry the bundles back and forth? I did that.

Q. I asked you a question. Did you have a bundle boy? A. I think on one or two days there was somebody there.

Q. Just one or two days? A. Yes.

Judge Goerlich: What does a bundle boy do?

The Witness: That is the first time I've heard that.

[314] Judge Goerlich: What did you do?

The Witness: They had the bundles—As the pressers got through with their bundles they would put them over on the side and if the inspectors weren't getting some of their production out it would start to pile up and I would move them around, keep them in a straight line.

Q. (By Mr. Rolnick) Do you know Philipe Santoya? A. Yes.

Q. What was his job? A. He took the pants out of the boxes as they came from Piedras Negras and he would put the tickets on them and that was it.

Q. Did he bring the bundles to the operators? A. When I first started that job I think that—The women were always complaining that he didn't.

Q. Was that his job? Was it part of his job—— A. I don't know what his job was.

Q. ——to bring the bundles? A. I don't know what his job was. Nobody told me what he was supposed to do.

Q. Did you ever see him bring the bundles to the operators? A. Occasionally. Not all the time.

Q. All right. And when he didn't do it you would help [315] out and bring the bundles to the operators. Is that what you are saying? A. Sometimes, yes.

Q. All right. And you said that you would take the bundles away from the operators? A. Yes. Because sometimes they wouldn't, they wouldn't move them out and they would just push them over to the side and the people couldn't get through or anything and I would move them out of the way.

Q. As a convenience to them? A. Convenience to anyone that is walking by.

Q. That's right. The same as if you are walking through the factory, if something drops on the floor you bend down and pick it up, right? A. Depending on what it is.

Q. Did you ever have more than one bundle boy? A. Not that I can recall. You mean—Oh, I'm sorry. Bundle boy. That's the first time I've heard that. You mean working with Philipe?

Q. Yes. A. Yes.

Q. What was that other person supposed to be doing? A. Helping him.

Q. Do what? A. I don't know.

[316] Q. Bring bundles to operators. Isn't that—— A. I wasn't in charge there. I don't know what he was doing.

Q. You told me you were in charge. Are you changing your testimony on that now, too? A. No, I'm not. But you are just —You are getting off on something I don't know. I'm sorry.

Q. Getting off on part of what goes on in a garment plant, Mr. Patlan. A. O.K. Fine. Fine.

Q. You knew that there was a bundle boy. A. Today is the first time I've heard bundle boy.

Q. You never heard the term but you knew that there was someone whose job involved bringing the bundles to the operators. A. To which operators, first of all?

Q. Buttonhole people. A. He would get them to the buttonhole people but that is as far as he would take them. You still had the top press department, the leg press department, and the inspectors.

Q. Right. When the buttonholers get done they place the garments on the trucks, right? A. Uh-huh.

Q. And you attended the piece rate meeting on November [317] 30—— A. Yes.

Q. ——and it was explained in that piece rate meeting that it was part of the operator's job to pick up, to go get the bundle and move it to their station. A. I believe it was, yes, sir.

Q. You knew that.

How often was Mr. McClain in your area? A. Quite a bit, I guess. I couldn't give you—Quite a bit.

Q. Well, let me ask you this. As part of his job duties did Mr. McClain have to spend some time in the office? A. Yes, I believe so.

Q. Getting which lots would go through, shipping papers, things like this? A. Or he would be in the back in the warehouse.

Q. How much of his time would you say he spent in the office? A. I don't know. I didn't follow him around.

Q. Well, give me an approximation. A. Well, I think he would just go in there for information he needed or something. I don't think he would spend too much time in there.

Q. All right. And then he would spend some time in [318] the warehouse? A. Yes.

Q. How much of his time would he spend in the warehouse? A. Quite a bit.

Q. 50 percent of his time? A. I'd say more than 50 percent.

Q. 75 percent of his time? A. No. I don't think so.

Q. Would you say between 50 and 75 percent of his time was spent in the warehouse? A. Yeah. Somewhere around there, yes.

Q. And the remainder of his time, some of it was spent in the office—— A. Yes.

Q. ——and the rest of the time was spent with you? A. Uh-huh.

Q. So that better than 50 percent of the time you had the section by yourself, didn't you? A. Yes.

Q. And you were responsible for seeing that the work got done? A. That's—That's true, I guess. But the employees knew what they had to do.

Q. Are you trying to tell me that you never had to make any decisions about what an employee should do next? [319] A. As long as they had the material there. What was I supposed to do, go up and tell them they are pressing on the wrong button?

Q. What if they ran out of work? What did you do then? A. Pardon me?

Q. What if they ran out of work? A. They never did.

Q. They never ran out of work? A. Not that I can remember. One day they did go home early because of it.

Q. What if it became necessary to have them stop work to do something else? Did that ever happen? A. That they— Because why? I don't understand.

Q. For any reason. A. If they had to stop work?

Q. Yeah. Did you ever go up to an employee and tell him to stop working and do something else, stop their normal job and go do something else? A. If I did I was conveying a message.

Q. Always? A. I wouldn't say a hundred percent of the time, no.

Q. Well, what percentage of your time did you make that decision? A. Not very many. Not much of a percentage. I can't give you an exact 35, 45, 75, but it wasn't very much.

[320] Q. All right. You've told us that you were alone with responsibility for that section better than half the time. Is that right? A. Well, if getting staples is responsibility and fixing staple guns.

* * * * *

[321] Q. (By Mr. Rolnick) Mr. Patlan, did Mr. McClain always give you instructions or were there occasions on which you decided on your own what had to be done? A. Pardon me?

Q. Did Mr. McClain always give you instructions on each occasion when employees had to be told something? A. Not always, no. There were a few times when I took it upon myself.

Q. When Mr. McClain was not present— A. Right.

Q. —and something came up such as a machine breakdown or the need to transfer people from machine to machine, clean up or do any of the things, who made that decision? A. I did.

Q. Part of your responsibility was to write down certain things on these production sheets and on the sticker sheets that

you said you distributed to each [322] person. A. Nobody ever showed me how to fill them out.

Q. Did you fill them out? A. Yes, I did.

Q. Did you take employees off their regular job and assign them to cleanup work? A. No, sir.

Q. You never did? A. Not for cleanup work.

Q. Are you certain of that? A. Yes.

Q. Did Mr. McClain ever tell you to take employees off and assign them cleanup work? A. Not to my recollection, no.

Q. Did you ever write on someone's gum sheet that you had assigned them to four hours cleanup work or a certain number of hours cleanup work? A. Are you referring to a certain instance?

Q. I'm asking you if you ever did it. A. Yes.

Q. Wasn't that part of your job to write that on the gum sheet so the payroll department would know that the people were taken off their regular job? A. Yes.

Q. And particularly when they are on a piece rate [323] system which employees were on the last week that you were there, the payroll department has to know if they are taken off their regular job, don't they? A. Yes.

Q. And that was part of your job duties was to write that on the gum sheets? A. Yes.

Q. And you did so? A. Not fully realizing what I was doing, yes.

Q. Excuse me? A. Not fully realizing what I was doing, yes.

Q. You made the decision to transfer those people, didn't you? A. They weren't about to sign it. Somebody had to sign it.

Q. And they came to you because they looked to you as their supervisor, didn't they? A. If you say so. You say "they looked". I don't know how they looked to me.

Judge Goerlich: Well, now, as I understand it, Sosa, the last day he worked, you reported that he was on repress. Is that right?

The Witness: Yes, sir.

Judge Goerlich: What was his regular job?

The Witness: Leg presser.

[324] Judge Goerlich: Now, I want to consider that specific situation——

The Witness: Yes, sir.

Judge Goerlich: ——that particular day. Do you know how he got over on repress?

The Witness: Yes, sir.

Judge Goerlich: How?

The Witness: I was told to put him on repress.

Judge Goerlich: Who told you to do that?

The Witness: Mr. McClain.

Judge Goerlich: Very well. Go ahead.

Q. (By Mr. Rolnick) Did you ever put an employee on repress by yourself? A. Yes, I did.

Q. Make the decision yourself? A. Yes.

Q. Why did you do that, sir? A. Pardon me?

Q. Why was it that it was necessary to put someone on repress? Explain it to the Judge. A. Well, there was a lot of— Let me see. Well, the girls in the repair, when they did the repair a lot of times the pants would get wrinkled up or they would get turned in out. They had to be repressed before they would

go out and somebody had to be—As soon as they [325] started piling up somebody had to do it.

Q. So you would notice that the repair girls had too much work to do. Is that right? A. Pardon me?

Q. You would notice that the repair girls had too much work to do and you would take some of the work back and assign it to the pressers. A. Whatever work they had finished. Whatever work they had already finished.

Q. All right. You would bring it back to the presser? A. If somebody had been designated on repressing. Otherwise, it would stay there.

Q. Did you ever check the quality of the pants to make sure that it would pass as good quality? A. Nobody ever instructed me on what kind of quality.

Q. Did you know from observing the work what was good quality and what was bad quality? A. Not really because some of the inspectors didn't know themselves.

Q. Did you ever speak to an inspector and say, "This won't pass"? A. I might have. Yes. I might have on a couple of occasions, a few occasions, yes.

Q. And you would then take that work back to be repressed? A. Not all the time, no. Sometimes.

[326] Q. Sometimes you would? A. If there was somebody repressing, yes.

Q. And you would decide that, wouldn't you? A. Yes.

Q. Now, when an employee's machine broke down who would decide whether to call the mechanic or whether to move the employee to another machine? A. What machine are you talking about?

Q. An empty machine. A. The buttonholes, if they broke down they couldn't be moved because there was no other machines so they would have to stand.

Q. What about the leg pressers? A. On the leg pressers they would just jump over to another one.

Q. They would do it on their own? A. A lot of times they did.

Q. And sometimes they didn't? A. right.

Q. And you would notice them standing around then—
A. No.

Q. —with a machine that wouldn't work? A. They would call me over and say it wasn't working right.

Q. What would you do? [327] A. I would tell them get on the next one while I find a mechanic.

Q. Now, were there occasions on which instead of telling them to go to another machine you would give them time on their gum sheet while the mechanic repaired their machine? A. You mean write down on their card time? Yes, I did.

Q. This was necessary for payroll purposes, wasn't it? A. Well, yes.

Q. Did Mr. McClain also do this? A. Yes.

Q. Who else did it? A. To my knowledge no one else. I never saw anyone else.

Q. Just you or Mr. McClain? A. (The witness nodded affirmatively.)

Q. Would you have to indicate on the gum sheets when an employee stopped work and when they started again if there was no work available? A. Yes.

Q. What was the reason for that, sir? A. Well, so they would know in payroll that they had been, they weren't on production for whatever time was on there.

[328] Q. And it was authorization for the payroll department to pay them? A. I believe so, yes.

Judge Goerlich: Mr. Rolnick, you referred to a gum sheet.

Mr. Rolnick: I'm going to demonstrate what it is.

Judge Goerlich: Is that the same thing as the exhibit that has been——

Mr. Rolnick: No, sir. I've got here gum sheets and I will show them to the witness.

Judge Goerlich: Very well.

Q. (By Mr. Rolnick) Were there ever occasions which Mr. McClain had to leave the plant for some reason or was absent?

A. I believe on one occasion he was absent?

Q. Were there ever occasions on which employees would be working overtime and Mr. McClain wouldn't be there? A. Yes. I believe so.

Q. On the day that he was absent who was in charge of the finishing area?

* * * * *

[330] The Witness: The thing is, on the occasion that he was absent no one from the office informed me. Carlos Juarez was the one that informed me that he was not going to be in. I never received word from Mr. Stubblefield, Mr. Ray, or anybody else in the office, come and tell me, "Well, Bill is not going to be here today so you are going to be left in charge of the place." I took it for granted that I guess I was going to be there but nobody said you are in charge. Nobody said make sure things get done.

Q. (By Mr. Rolnick) Well, on that day when the employees had to get instructions from someone, who gave them those instructions? A. Instructions? They knew what they had to do. They knew their jobs.

Q. Mr. Patlan, you worked in the plant for a period of weeks and you are aware, I take it, that during the course of the day in a garment operation various things come up such as

machine breakdowns, need to transfer employees, need to clean up. A. Never cleaned up.

Q. Never cleaned up? A. No.

Q. Are you certain of that? A. Yes. The times we did clean up was on a Saturday, [331] Saturday morning, or something. Not during the week. Not a normal work day.

Q. Are you sure—— A. Positive.

Q. ——that you never cleaned up on a normal day? A. Not to my knowledge, no.

Q. Could you be mistaken? A. I might me.

Q. You certainly not as sure of that as you are of the rest of your testimony, are you? A. How was that again?

Q. Are you as sure of the fact that you never cleaned up on a weekend as you are of the rest of the testimony?

Judge Goerlich: He did say weekend. He said he cleaned up on Saturday.

Mr. Rollnick: All right.

Q. (By Mr. Rolnick) Are you sure that you never cleaned up on a week day as you are of the rest of your testimony? A. I don't understand your question. I'm sorry. I'm not—That's very——

Q. O.K. If you don't understand a question you just tell me.

Do you remember when the corporate officials came down to visit the plant for the grand opening at the [332] plant? A. Yes.

Q. They came down on a Tuesday. A. I don't remember the date but I remember them coming down, yes.

Q. O.K. Did you clean up the plant to get ready for the corporate officials? A. Did I? No.

Q. Did workers under your direction clean up? A. Not under my direction, no.

Q. Did you transfer some workers from their regular job and assign them to cleanup? A. Mr. McClain advised me which ones he was going to put on. As a matter of fact, some were already cleaning up when I found out about it.

Q. He told you exactly who to pick out? A. Exactly.

Q. And then you signed their time cards for the time they cleaned up that day? A. The only time I signed the cards was because the time clock wasn't working.

Q. But you signed their gum sheets for the time that they spent cleaning up? A. I believe I might have. I believe so.

Q. The day before the corporate officials came, [333] December 3, you signed the approval for the employees to get paid for the time they spent cleaning up, didn't you? A. Yes.

Q. And on that same day you signed gum sheets for employees to show the time that they started repress and the time they stopped. A. Yes. I believe I did.

Q. And the reason that you signed it is because that shows that they should get paid for that time that they were so called off standard, they were not on a piece rate. A. Yes.

Q. And it requires approval in order for them to get paid properly. A. Yes.

Q. Now, on the day that you asked, that Mr. McClain asked employees to clean up, you say he selected the employees? A. Yes.

Q. Who watched them as they cleaned up? A. I don't know.

Q. Was anyone responsible for seeing that they cleaned up properly? A. I don't know.

[334] Q. Who decided when they could leave? A. I don't know. I didn't tell them it was time to go.

Q. Did you let some employees go at 4:00 o'clock? A. I don't remember.

Q. Could you have signed some employees out at 4:00 o'clock? A. It is possible.

Q. Did Mr. McClain stay late that day? A. I don't remember.

Q. Could you have signed employees out at 6:00 o'clock? A. It is possible.

Q. Who decided who was going to go home at 4:00 and who was going home at 6:00? A. The people that were there to clean up. They knew what they had to do. Somebody had already told them what to do. I don't know who it was.

Q. Are you trying to tell this Court that a person, a worker could decide on his or her own that they would leave at 4:00 o'clock because they were finished cleaning up but other people stayed until 6:00?

Mr. Linton: That is not what the witness answered, your Honor. The witness just in a previous answer said that someone had told them as far as he knew.

Mr. Rolnick: That's not correct.

[335] Mr. Linton: Just read the answer back if you want to.

Judge Goerlich: Did you understand the question?

The Witness: I believe I did, yes.

Judge Goerlich: You may answer it if you understand it.

The Witness: Well, I'm not too sure of the question now.

Judge Goerlich: Very well.

Would you rephrase the question so the witness can understand?

Mr. Rolnick: O.K.

Q. (By Mr. Rolnick) You were aware that Mr. McClain had selected certain employees to clean up. A. Yes.

Q. And is it not true that certain employees cleaned up until 4:00 o'clock and others cleaned up until 6:00 o'clock? A. I can't be sure. I can't remember that far back and say yes, they stayed til then.

Q. All right. Let's assume for a moment that they did, Mr. Patlan. A. Uh-huh.

Q. Let's assume for a moment that some cleaned up until 4:00 and some cleaned up until 6:00. Who made the [336] decision as to who would stay until 6:00 and who would leave at 4:00?

Judge Goerlich: If you know.

A. I don't quite follow your question. I'm sorry. I don't understand.

Q. (By Mr. Rolnick) All right.

On December 3, 1973, which was the day before the corporate officials came, you testified that Mr. McClain decided that certain individuals would be assigned to cleanup. A. Yes.

Q. And you testified, as I understand it, that you yourself had nothing to do with who would be cleaning up. A. No.

Q. Strictly Mr. McClain. A. Yes.

Q. All right.

Now, who decided when the employees would stop cleaning up? A. I believe they were given, they were told what to clean up and after they finished that they could leave.

Q. Who gave them this permission? A. I don't know. Probably Mr. McClain since he was——

Q. Possibly you? A. Possibly, yes.

[337] Q. Well, isn't it a fact that you signed someone's gum sheet that day giving them permission to leave at 4:00 p.m.? A. I don't—One person or individuals?

Q. Well——

Mr. Rolnick: Mark this as Respondent's 4, please.

(The document above-referred to was marked Respondent's Exhibit No. 4 for identification.)

Q. (By Mr. Rolnick) Mr. Patlan, when employees finished cleanup that day was it necessary for them to get their time authorized so that we would, so the Company would know how long they stayed? A. I believe so. There had to be some kind, something.

Q. Right. So when someone finishes, someone wants to get off early, they come and they have to get their time O.K.'d, right? A. Uh-huh.

Q. They can't just pick up and say I'm done cleaning or I'm done pressing or I'm done with whatever they had been assigned to do and just leave the plant, can they? A. Some individuals that did it.

Q. They are not supposed to. A. I know.

Q. It is part of your job to see that they do not do that, wasn't it? [338] A. Right.

Q. Now, let me show you what has been marked for identification as Respondent's Exhibit 3—4, excuse me, which purports to be a gum sheet of Juan Lozano, a leg presser, for the date of December 3, 1973, and I'll ask you if you can identify that?

Mr. Rolnick: Your Honor, I will get back to Respondent's 3. I have not shown that and that was the question of General Counsel. A. Yes.

Q. (By Mr. Rolnick) Is Respondent's 4 a gum sheet, what they call a gum sheet or a sticker sheet? A. Yes, it is.

Q. And is that what you passed out to each employee as your first job duty each day? A. That's correct.

Q. That's how they began the day by getting a gum sheet from you? A. Uh-huh.

Q. And then as a bundle of pants would come to them in whatever dozen it was, there would be a tag on the bundle. Is that right? A. Uh-huh.

Q. Well, at least there was supposed to be a tag? A. Supposed to be.

[339] Q. And if—When the operator, be it a presser or button-hole operator, whatever it was, finished with that bundle, she took the tag off, she or he took the tag off and stuck it on her gum sheet or his gum sheet. A. Yes.

Q. And that showed the work that they did. A. Correct. Right.

Q. And that's the procedure that was followed. A. (The witness nodded affirmatively.)

Q. Now, on occasion would a bundle come to an operator and it would have the wrong number of dozen on it? A. Sometimes, yes.

Q. And they would call you over— A. Yes.

Q. —and ask you to correct the tag? A. This was before the new pay system started.

Q. Before the new pay system. And that was so they could show what they had really done? A. Yes.

Q. And you were authorized to make that correction? A. Well, before the new pay system nobody paid too much attention to the stickers anyway.

Q. Well, that's a conclusion.

You knew that those tickets would be placed on gum sheets which were then turned into the office and also [340] put on the production count. A. Right.

Q. And this was part of your job duty? A. (The witness nodded affirmatively.)

Q. And you knew as part of your job duty if a bundle had the wrong number on it that you were authorized to correct it. A. After the pay system I would take them back to the bundle boy, Philipe, and I would have him either add or if there wasn't —Sometimes the pressers or the inspectors would tell me that the wrong amount was written on the tickets. After the new pay system I would take it back to Philipe and let him straighten it out.

Q. You would bring it back to him because he had made a mistake in giving them the right number of dozen? A. Somebody made a mistake.

Q. Well, that was his job to get the right number, wasn't it? A. (The witness nodded affirmatively.)

Q. Let's refer back to Respondent's Exhibit 4. What does that show on there in handwriting at the top where it says 2:55? Would you read that out, please? A. 2:55, stop. Cleaned up til 4:00 o'clock. And my first initial and my last name.

[341] Q. That is your handwriting? A. Yes, it is.

Q. And that was to tell the payroll department that Juan Lozano stopped his regular work at 2:55 p.m. and cleaned up until 4:00— A. Until 4:00.

Q. —at which time he left? A. Uh-huh. I don't know what he did.

Q. If he did anything else, isn't it supposed to be shown on there? A. I don't know.

Q. Well, if he had had repair or repress, wouldn't you have written that on the gum sheet for him? A. I was never told how to fill that sheet out.

Q. Did you or did you not when there were repairs done or repress write it on gum sheets so the payroll department would know? A. Oh, on repress, yes. If they had been working on——

Q. And repair, too, right? A. On repair?

Q. Yeah. A. I don't understand.

Q. Machine repair. So the operator would be paid for that lost time you would write it on the gum sheet, wouldn't you? [342] A. That I think I did two or three times.

Q. That was to let payroll know to pay that person for that time? A. (The witness nodded affirmatively.)

Q. You didn't go to Mr. McClain before you wrote that? A. Mr. McClain also wrote on the sheets if the machine was broken down.

Q. Right. He would write on it? A. (The witness nodded affirmatively.)

Q. You were the only two in the finishing department that would write on those sheets. A. Well——

Q. The answer is yes? A. Anybody could have written on them. The employees themselves could have written on them.

Q. Did they? A. I imagine if you look through enough sheets you will find other signatures, not other signatures, other writing on there.

Q. Were they authorized to do so? A. No, I guess not.

Q. Did they know better than to write on them?

Mr. Linton: Objection as to what they would know, your Honor.

Mr. Rolnick: Your Honor, this is common knowledge [343] in a garment plant and this individual is an intelligent witness who can answer the question.

Judge Goerlich: Well, he would only know if it had been related to him. I think I'll sustain the objection, Mr. Linton.

Q. (By Mr. Rolnick) To your knowledge was it a part of the procedure that employees are not to write on their gum sheets but instead are to bring it to someone who is authorized to put that message on? A. It is not normal procedure, no.

Q. What is the procedure? A. To get one of the supervisors to sign it, put down the time that they stopped.

Q. To come to one of the supervisors and get them to sign it? A. (The witness nodded affirmatively.)

Q. And not to write on it themselves? A. Right.

Q. And therefore, there were occasions on which they came to you to get you to sign their gum sheet? A. Yes.

Q. And you knew that you were authorized to do so? A. Yes. I was authorized to sign it.

Q. Surely you didn't sign Respondent's 4 without knowing that you could do so, did you? [344] A. No.

Q. You knew you had permission to write on there, right? A. Uh-huh.

Q. And you knew the reason for writing on there was to let the payroll department know that Juan Lozano was released at 4:00 p.m.— A. Right.

Q. —because if he had stayed past 4:00 p.m., then you would give him credit for the time that he worked past 4:00 p.m., right? A. Yes.

Q. There is no problem there? A. No.

Q. If he worked until 5:00, you would give him credit until 5:00 o'clock. A. Uh-huh. It would show on his time card anyway.

Q. Well, it is not a question of time card. It is a question of him being paid and this was part of him being paid. If there was a dispute on occasion, you would write on the gum sheet "pay time" to let the payroll department know that they were to pay this individual. A. Right. Yes.

Q. And they would have to come to you to get you to [345] write this. A. Yes.

Q. Otherwise, they wouldn't be paid for it. A. That's correct.

Judge Goerlich: Mr. Patton, gum sheet that you have there in your hand—I recall there was a production sheet, I believe, which is marked Respondent's Exhibit No. 1, I believe. I think it was marked 1.

Mr. Rolnick: Respondent's 1 and 2.

Judge Goerlich: The one that the information is on Respondent's Exhibit 1, was that obtained from the gum shoes?

Mr. Rolnick: Excuse me, your Honor. Gum sheets.

Judge Goerlich: Gum sheets. What did I just say, gum shoes?

Mr. Rolnick: Yes.

The Witness: Yes, it was, your Honor. Each of these tickets represents six dozen.

Judge Goerlich: You took the information off the gum sheet?

The Witness: Yes. The employees were given one of these and they would take off the tickets and place them on there as they got through with each bundle.

Judge Goerlich: Now, from the gum sheet you took that information and put it on Respondent's Exhibit No. 2, [346] No. 1?

The Witness: 1 and 2, yes.

Judge Goerlich: All right. I understand.

Q. (By Mr. Rolnick) You would also put on Respondent's Exhibit 1 or 2 if the employee was absent? A. Pardon me?

Q. You would also put on Respondent's Exhibit 1 or 2 if the employee was absent that day. You would indicate that, right? A. Yes.

Q. And if the employee was put on repress you would indicate that. A. I didn't do it all the time, no.

Q. But you did do it? A. Sometimes, yes.

Q. In fact, if we looked at Luis Rios for the week of 11-19 through 11-24, Monday, Tuesday, Wednesday, doesn't it indicate repress each day? A. Yes. But it doesn't on Thursday.

Q. I asked you about Monday, Tuesday, and Wednesday. A. Well, let's look at the whole thing not just the three of them.

Q. Thursday is blank, isn't it? A. That's right. There is nothing written on there whether he was repressing or absent or——

[347] Q. What does it show, Mr. Patlan? You made that thing out yourself. A. What do you mean what does it show?

Q. Well, tell us what it shows about Mr. Rios. A. That on Monday, Tuesday, and Wednesday he did repress.

Q. Then what does it show on Thursday? A. I don't know. It is blank.

Q. And is it filled in any further in any further weeks? A. No.

Q. Well, what does that mean? A. Probably, he was probably absent. He didn't come in.

Q. And if he was absent wouldn't you write absent on it?
A. Sometimes I did. Sometimes I didn't.

Q. So wouldn't it be a fair conclusion to draw that Mr. Rios, that was the last day he worked was that Wednesday? A. Yes.

Q. What effect does it have on employees put on repress and they are on a piece rate? A. Well, under this system, not much.

Q. If they were obtaining—If they are making their production, what does it mean if you put them on repress? [348] What does that do to their earnings? A. Well, I believe they would be paid the \$1.60, the minimum.

Q. Instead of what they could have earned had they stayed on the regular job? A. Yes.

Q. So that if an employee's sheet indicates repress, this means that had that employee been making production he would have actualiy lost money by being put on repress. A. It is possible.

Mr. Linton: Your Honor, just for clarification, I don't believe there is an explanation of the term "making production".

Judge Goerlich: Well, I think Mr. Ray clarified all that. He indicated how they handle the situation. I assume he is expert on the subject. What he says, I'll believe on that point.

Q. (By Mr. Rolnick) Now, let's get back to the cleanup. On the day that we were talking about, 12-3, some employees worked until 6:00 o'clock and then came to you and asked you to sign their sheets. A. I guess so.

Q. Yet Mr. Lozano came to you at 4:00 o'clock and asked you to sign his sheet. A. Yes.

[349] Q. Who gave him permission to leave at 4:00? A. I don't know. I signed it.

Q. By signing it, isn't that the same as giving him permission to leave? A. No. No, it doesn't.

Q. It doesn't? A. No.

Q. Wasn't 4:00 o'clock the normal quitting time? A. There was sometimes that when they were cleaning up, I didn't—They were taken out of the department to clean up. I didn't know what they were going to do or what time they were going.

Q. On December 3 employees were selected by Mr. McClain, according to your testimony, to clean up. A. Yes.

Q. Normal quitting time at the plant if you are not working overtime was what hour? A. 4:00, I believe.

Q. Mr. Lozano came to you at 4:00 p.m. and asked you to sign his sheet. A. Uh-huh.

Q. That's the one I showed you. A. Yes.

Q. That meant that he was going home. A. I believe so, yes.

[350] Q. It is the last thing on his sheet. Doesn't this indicate that he was going home at 4:00 o'clock? Isn't that why you signed it? A. Yes. But I don't believe he came up to me and said I'm going to go home at 4:00. I never gave——

Q. Could he go home, Mr. Patlan, without getting someone to approve his time and still be paid for it? A. No.

Q. So that by approving his time at 4:00 p.m. you were giving him permission to go home, weren't you? A. I guess.

Judge Goerlich: On that day did you determine the number of hours that individual was supposed to work?

The Witness: No, sir. I didn't. I don't remember why he went home at that time, but I know I didn't—I didn't say—Well, he didn't ask me can I go home at 4:00 o'clock and I said, well, sure, let me sign your card and go home.

Q. (By Mr. Rolnick) Mr. Patlan, could he leave and get paid for his time if someone didn't sign it?

Judge Goerlich: The witness already answered that at least twice that someone has to approve the time that he put in. I understand it. The witness understands it. Let's go to some other subject.

Mr. Rolnick: O.K.

[351] Judge Goerlich: Now whether or not that means this individual is a supervisor is another thing.

Mr. Rolnick: I understand that.

Judge Goerlich: It is a fact of operation. I understand it. Go ahead.

How much longer do you think you have of this witness on cross-examination?

Mr. Rolnick: I would think another two hours.

Judge Goerlich: Well, I guess I better ask the reporter what her situation is in regard to her ability to continue longer tonight. You want to go until 5:00 o'clock?

The Reporter: That will be all right.

Judge Goerlich: Very well, We have about 20 minutes.

Q. (By Mr. Rolnick) Mr. Patlan, I'll hand you what has been marked for identification as Respondent's Exhibit 5, a document that purports to be the gum sheet of Alex Bustamante for December 3, 1973, and I'll ask you if you can identify it?

(The document above-referred to was marked Respondent's Exhibit No. 5 for identification.)

A. Yes, I can.

Q. Is that the gum sheet for that day? A. Yes.

[352] Q. And what does that gum sheet show, sir, in handwriting? A. 2:55, stopped. Cleaned up until 6:00. And my signature on the bottom.

Q. Now, you testified, did you not, that 4:00 o'clock was the normal quitting time? A. Uh-huh.

Q. And therefore that working until 6:00 was overtime? A. Yes.

Q. I take it you stayed until 6:00? A. I believe so. If I signed it at 6:00.

Q. That is a fair assumption.

What did you do between 4:00 and 6:00? A. I don't remember that far back.

Q. Well, what would you have done? Did you participate in the cleanup? A. No. Well, the cleanup that you are talking about, it involved, it involved four top pressers, I believe, and they were cleaning the washrooms, the offices, the windows, and there were some people that were decorating the stage where they were going to have the speakers the next day.

Q. Well, there was some leg pressers also? A. Well, I believe so.

Q. All right. And you stayed for two hours. You didn't [353] do any of the cleanup? A. I didn't—They were—I was doing something back in the finishing department and they were taken out of the department by Mr. McClain. I don't—

Q. And then they came back to you to get their time approved? A. Pardon me?

Q. They came back to you to get their time approved? A. Yes.

Q. Was Mr. McClain there? A. Pardon me?

Q. Was Mr. McClain there that day? A. I believe he was. He was the one that took them out, that put them out there, you know.

Q. But he didn't approve their time? A. No.

Q. They went to you for that? A. My signature is on there.

Mr. Rolnick: Would you mark this Respondent's 6?

(The document above-referred to was marked Respondent's Exhibit No. 6 for identification.)

Q. (By Mr. Rolnick) Now, when an employee had a machine breakdown that had to be repaired, did you ever authorize time for that? A. On several occasions I did, yes.

[354] Q. They would come to you? A. They would call me over.

Q. And you would have to decide whether or not they should get time while their machine was being repaired, right? A. Well, I believe it was—I believe they explained that at the meetings that it was the first 15 minutes was their time and anything after 15 minutes that the machine was stopped they would get some kind of——

Q. And it would have to be signed for, authorized? A. Yes.

Q. And you did that? A. Yes and no. Because I never had the occasion to write down on the card where it would be over 15 minutes. Those machines were down every 5 or 10 minutes.

Q. Well, what does it mean when you write on the time card started to repair, pay time? A. Well, I never quite understood that myself. I asked Mr. McClain and he just told me, he said just put down the time, he said, and payroll will know what it is.

Q. All right. But if it is not put down, then the employee doesn't get credit for that time. A. No. I believe not.

Q. Now, instead of giving them time for the repair of the machine they could be moved to another machine, [355] couldn't they? A. Depending on who you are talking about.

Q. A presser. A. If they were working, a lot of times the machines were out and they would have to wait until the mechanic got there.

Q. All right. Or they could be assigned some other job? A. They never were.

Q. Never at any time? A. Not under my authorization. I was never told if it breaks down here and you don't have another presser to put them on, put them to do something else.

Q. Did you ever do it? A. I don't believe I did, no.

Q. You never transferred anyone from one place to another? A. Oh, yes, definitely.

Q. You decided that yourself, didn't you? A. Yes.

Q. It would come up as part of the normal operation. A. Well, it is not really a big decision to make. If they are down and there is a machine next to them that is working, it is only common sense. They would do it by themselves automatically.

[356] Q. Did they do it themselves? A. Yes, sir.

Q. Or were they told to do it? A. Sometimes they did it on their own. I would walk over and ask them how come they switched and they said that it was done and go get the mechanic and see if he can fix it.

Q. And other times you would tell them to switch? A. Yes.

Q. Why? A. Pardon me?

Q. Why? A. Why? The times that I would they would tell me they were having trouble with the machine and I would tell them to move over to the next one while I looked for the mechanic, while I got the mechanic.

Q. Because it was part of your job to see that the job ran properly, wasn't it? A. Well, that is your opinion.

Q. Well, wasn't that what you were there for? A. I considered myself being there as nothing more than a messenger boy and somebody to get the little knickknacks. I never felt that I had any authority there whatsoever.

Q. Mr. Patlan, they had bundle boys to bring the knickknacks you referred to. [357] A. Was that what they were supposed to do for the inspectors? Nobody ever told——

Q. That is what they do at every garment plant. A. Well, nobody ever told me. This is the first time——

Q. In other words, you had two people——

Mr. Linton: Your Honor, I object to Counsel not letting the witness answer the questions. The witness is in mid-answer when he's interrupted by Counsel.

Judge Goerlich: The witness has done very well. As a matter of fact, even the Respondent's Counsel is recognizing an intelligent witness. He handles himself all right, Mr. Linton.

Mr. Linton: I just would like for him to be able to complete an answer before Counsel interrupts. That's all.

Judge Goerlich: Go ahead, Mr. Rolnick.

Q. (By Mr. Rolnick) Mr. Patlar Philippe Santoya had a job to do when you were there, right. A. I believe so.

Q. And that job was to bring bundles to operators? A. To the buttonhole operators.

Q. Only to the buttonhole operators? A. Yes. That's all I ever saw him do. No. No. Excuse me.

Q. In other words, he was to work eight hours a day [358] bringing bundles to what, six buttonhole operators? A. No. He would take the garments out of the boxes and he would count them and put the tickets on them and put them on tables

and put them next to the buttonhole people so that they could, they would start work from there.

Q. All right.

Then it was explained to you in the meetings that aside from buttonhole operators the other operators as part of their piece rate were to get the bundles and put it by—— A. It was explained to everybody, not only myself.

Q. Right. But you are the only one aside from the other admitted supervisors that attended all those meetings. A. Uh-huh.

Q. What other job duties did Mr. Philipe Santoya have? A. Well, when they unloaded the garments coming in from Piedras Negras, they would, they would be set back a little back in the warehouse and they went—I believe he went by lots, and a lot of the time he would have to get a hand truck and go over and bring the lot that he was going to run through and bring it over to his area and open them up and count the garments and put them on tables.

[359] Q. How much of his time would that take? A. I think quite a bit because he was always telling people that he wanted a helper, he needed somebody to help him.

Q. And you gave him a helper? A. I gave him a helper? No, sir, I didn't.

Q. He was given a helper, wasn't he? A. But not through me, no.

Q. Was he given another person to assist him? A. Not regularly. He would have a person, say, two or three days and they would be taken away and he would be there by himself again. And then some time would go by——

Q. Did you ever recommend to Mr. McClain that he get a helper for Mr. Santoya? A. I believe I did, yes.

Q. Did he do so? A. I don't remember if it was at that same time he did or not. No. I don't think he did that time that I recommended to him, no. As a matter of fact, Mr. Santoya would ask me where is my helper. I told him that I didn't have any authority to assign anybody, that I would talk to Bill about it.

Q. He would come to you and ask you? A. He wouldn't come to me. He would see me walking [360] around the area and he would call me over.

Q. Well, what were you doing? A. Pardon?

Q. Well, what were you doing all this time? A. If it wasn't getting a mechanic, it was trying to fix staplers, trying to get stuff for the repair girls. They had—What did that lady do?

Q. What do you mean get stuff for the repair girls? A. Pardon me? I meant getting garments for the repair girls.

Q. That was part of their job to get the garments, wasn't it? A. Nobody ever told me that.

Q. Oh, come now. That was in the meeting, wasn't it? A. Mr.—After those meetings, way after those meetings, Mr. McClain came up to me personally and told me to make sure that they had enough material to work with. Not only them, but the women that was on the buttons, that was repairing the buttons.

Q. Make sure they had enough work to do? When they ran out of work to make sure they had something? A. Exactly. Exactly.

Q. And if they ran out, transfer them to something where there was work available? A. No. I would have to round up—

[361] Q. You would have to go find Mr. McClain before you would move someone, say, from topping to legging? A. We

were talking about the repair. Now you are on topping and legging.

Q. All right. All right.

You moved people from tops to legs, right? A. On my own, no.

Q. You found Mr. McClain each and every time? A. No. Mr. McClain would come to me and say that the leggers were going too slow or that the production was piling up, and he would say you are better off getting a couple of toppers and putting them on legs so that they even out.

Q. All right. So he would say go get X and Y and move them? A. Exactly.

Q. And he would always tell you exactly who to move? A. Exactly.

Q. You never made the decision yourself. Is that what you are testifying? A. No. After a while—The only people—The majority of the time I knew which ones he was going to pick. The two sisters. The two sisters that worked there, he knew that—He would always tell me you get some toppers and he would always pick them. So after a [362] while I'd say you want the same ones and he would say yeah, take them.

Q. You would ask him do you want the same ones? A. Yeah.

Q. You never on your own picked those two people? A. I might have on one or two occasions at the most. Two probably at the most.

Q. Now, you were a supervisor, an assistant supervisor they called you, right? A. I never considered myself, no.

Q. I asked you if that was what you were called, assistant supervisor. This is what your time card read? A. Nobody ever called me that. The time card said that.

Q. Your payroll records indicated it? A. The time cards, yes.

Q. And Mr. McClain was trying to work with you to teach you how to do the job that you were doing, right? A. No.

Q. Never worked with you on—— A. On one occasion that I can remember that I think—Let me see, was he—I believe he was moving some of the employees or—No. No. It was something about the inspectors staying overtime and he said they had to stay overtime because as you can see the production from the toppers and the leggers is more than what, you know, what [363] the inspectors, is going through the inspectors and that was the only time that he said now this is why I want, I want you to see the reason why I'm doing it. But that was the only occasion that he ever said this is why you do it or this is how you do it.

Q. All right. Let's talk about that occasion for a moment.

That was an occasion on which all the inspectors were transferred or worked overtime? A. They weren't transferred. They stayed overtime. The majority of the time all of them would stay overtime.

Q. On this occasion did all of them stay overtime? A. I can't remember that particular occasion, no.

Q. If anyone didn't stay overtime, how would that come about? A. Pardon me?

Q. If someone left at 4:00 o'clock, did not work overtime that day, how would that come about? You just got done saying that Mr. McClain told you to take care of that that day. A. Well, it was a visual thing that you would see right on the floor to see how much production was on there. If there wasn't much production, they knew themselves that they weren't going to be staying overtime.

Q. Who decided that someone could leave and someone [364] would work overtime on that occasion you are talking about? A. On which occasion? You are pointing out—You are pointing out——

Q. Didn't this occur at the beginning of December? A. You are point out one little occasion out of weeks that the rest of the weeks it never happened.

Judge Goerlich: Did you ever assign any overtime?

The Witness: Pardon me?

Judge Goerlich: Did you ever assign any overtime to anybody on your own?

The Witness: On several occasions I did on my own, yes.

Judge Goerlich: What were the circumstances at which you did that?

The Witness: I couldn't find Mr. McClain. And I believe another time I went to Mr. Juarez and I asked him and he said, well, he says, see what you can do. So I just said all right and had them stay.

Q. (By Mr. Rolnick) On Friday, November 30, 1973, did Mr. McClain tell you to work the inspectors overtime? A. I can't remember that far back. What do you think I am?

Q. O.K. I'll refresh your memory.

Did any of the inspectors ask you if they could not [365] work overtime? A. That they could not?

Q. Yeah. If they didn't have to work overtime. If they could leave. A. I imagine sometime or other they must have.

Q. Did you have an inspector by the name of Olga Hernandez? A. Yes.

Q. An inspector by the name of Maria Juarez? A. Who?

Q. Maria Juarez, Juarez. A. Maria Juarez? I had a Nicolasa Juarez.

Q. I know you had Nicolasa Juarez. Did you also have Maria Juarez? A. I don't believe I did. I don't think so. The name doesn't sound——

Q. What about Elida Ortiz? A. Yes.

Q. Did Elida Ortiz ever come to you and ask you not to work overtime? A. What do you mean not to work overtime?

Q. To get off at 4:00 o'clock. A. That she didn't want to stay overtime?

Q. Right. A. I think so, yes.

[366] Q. And this was the same day that Mr. McClain told you to take care of the problem, wasn't it? A. As a matter of of fact, there was some days where all of them said no, they didn't want to stay overtime.

Q. All right.

But along about the end of November, beginning of December, which was only a week or ten days before your termination—— A. O.K. Now, I understand.

Q. Mr. McClain had a conversation with you in which he told you to work the inspectors overtime. Isn't that right? A. I don't recall the conversation.

Q. Well, when was the conversation in which he told you to take care of working the inspectors overtime, for you to decide? A. I don't—I didn't pay any significance to the day or——

Judge Goerlich: Well, did he ever turn the assignment of inspectors' overtime to you on any occasion?

The Witness: I took it upon myself a couple of times. A few occasions I took it upon myself.

Judge Goerlich: To tell the inspectors to work overtime?

The Witness: Yes.

[367] Judge Goerlich: Did you ever make a decision on your own that an inspector could be, should be excused from overtime?

The Witness: No. No. I don't believe I did. No.

Q. (By Mr. Rolnick) Did you ever make the decision that an inspector wouldn't have to come in on Saturday? A. No.

Judge Goerlich: How did you come to make a decision that the inspectors should work overtime?

The Witness: By the production on the floor. If there was quite a few—If there was a—I can't remember—Mr. McClain gave me a figure of how many bundles, how many bundles should be on the floor where they wouldn't, where they might not have to stay overtime.

Judge Goerlich: Well, did he indicate to you that if there was a certain number of bundles on the floor that you should tell the inspectors to stay over? Is that what you are saying?

The Witness: Yes.

Judge Goerlich: Is that how it came, you came to tell them to stay overtime?

The Witness: Yes. I would count the bundles. I can't remember the exact figures. It was so many bundles to each inspector.

Q. (By Mr. Rolnick) In other words, if you were getting [368] behind and you needed to get the work out, you would tell the inspectors to work overtime? A. If they were getting behind.

Q. If they were getting behind? A. (The witness nodded affirmatively.)

Q. You would decide that they needed to work overtime? A. Well, the production would decide that.

Mr. Linton: Well, your Honor, I would object to that. That's arguing with the witness. The witness gave the answer as to what guidelines Mr. McClain laid down. Trying to say you decided is simply arguing his case with the witness.

Q. (By Mr. Rolnick) Mr. Patlan, let me quote from your affidavit. You tell me if I can read correctly.

"About my last two weeks I began telling the inspectors on my own to stay overtime if I thought they needed to stay to get the work out."

Does that appear in your affidavit on page 4? A. If you read it, I guess it does.

Q. Look at it right there. An affidavit taken by the Counsel for General Counsel.

Judge Goerlich: The question is: Does that appear in your affidavit, Mr. Patlan?

The Witness: Yes, it does.

Q. (By Mr. Rolnick) And was it true when you told it [369] to him? You didn't put anything in your affidavit that wasn't true, did you?

Judge Goerlich: Just a minute.

A. I'm not an attorney. When he asked me this question, I didn't think about things as being exactly, for everything to be the exact figure, the exact day, the exact time. It was just general.

Q. (By Mr. Rolnick) Exactly. When he asked you those questions the issue of whether or not you could win this case by being an employee as opposed to a supervisor wasn't an issue either, was it? A. He never said that to me.

Judge Goerlich: We will stand in recess until 9:30 tomorrow morning.

* * * * *

[373] Whereupon,

PEDRO PATLAN

resumed the stand and testified further as follows:

Cross-Examination (Continued)

Q. (By Mr. Rolnick) Mr. Patlan, let me review a little bit of what we discussed yesterday.

Judge Goerlich: I don't want to go back over——

Mr. Rolnick: I'm not rehashing matters. I'm taking what the witness himself said. I'm not asking——

Judge Goerlich: You are talking about his direct examination or his cross?

Mr. Rolnick: Direct.

Judge Goerlich: Very well. I don't want to go over the cross again that you went over yesterday. That would bore some of the audience, including me.

Mr. Rolnick: Couldn't do that.

Q. (By Mr. Rolnick) Mr. Patlan, you said that Mr. McClain came to you after you had been on the job some two weeks and told you that he was promoting you to assistant supervisor. Is that correct? A. I was—Yes.

[374] Q. And he said that he would get you a raise? A. That's—Yes.

Q. And Mr. Juarez was present for this conversation, Mr. Carlos Juarez? A. Yes.

Q. And he was the then assistant supervisor of the finishing department? A. Supposedly, yes.

Q. He was to show you what your job duties were? A. Not entirely. He was told to take me and just show me how to pick up the count.

Q. All right.

Now, Mr. Patlan, if you would, see if you can give me what you do in a typical day as assistant supervisor of the finishing department. Start from the first thing in the morning and see if you can take me through a day. A. Well, the first thing I would do is give out the sheets to each employee.

Judge Goerlich: A gum sheet?

The Witness: Yes, sir. Gum sheet.

Q. (By Mr. Rolnick) This was necessary for them to put their production on it for payroll purposes, right? A. Yes.

Q. O.K. A. And then—Well, the morning always started a [375] little hectic by the time everybody got settled down and got everything going.

Q. What would you do, sir? A. Pardon me?

Q. What would you do? A. I would make sure that they had what they needed to get started with. If they needed any more material or anything to work with, I would have to see if I could get it for them.

Q. Was that the first thing that you did? A. Yes. That usually took up quite a bit of time.

Q. How much time would that take, sir? A. I don't know. I never paid attention to the time.

Q. Half hour? A. Your guess is as good as mine. I don't know.

Q. Well, Mr. Patlan, you are on the witness stand. I'd like for you to give me your best recollection how long it would take. A. There was never—Two days were never identical. Everything was always—I mean nothing was run on schedule. For example, one morning I was brought, there was an inspetcor that was supposed to be put there. There was no table. I couldn't get any staplers, any scissors. It takes quite a while to run around.

Q. What did you do? [376] A. I was trying to run around and find these things.

Q. Well, what did you tell the inspector? A. I told her—I asked her who sent her over and that I had to see if I could get the things for her that she needed to start work.

Q. You would have to find her something to do? A. At first, yes. I wouldn't go out and find her anything to do. She was sent there to be an inspector. I knew what she had to do. I just had to get the material for her to do the job.

Q. Well, when was she sent there? What time of day? A. Oh, I don't know. In the morning sometime. She had started work in the warehouse and she was sent up front to work with the inspectors.

Q. All right.

Let's go back, if you would, Mr. Patlan. I want you to tell me what you did first thing in the morning after bringing the gum sheets to employees. What's the next thing that you did? A. I told you. I would make sure—There was always—Somebody always needed something.

Q. Well, wasn't the next thing, for example, checking absenteeism? A. Yes.

Q. Wasn't that part of your assignment? [377] A. A lot of times I would do that as I gave out the gum sheets.

Q. Right. Now, what would happen if someone was absent? What would you have to do? A. Inform Mr. McClain.

Q. All right. Did you always inform Mr. McClain of each and every absence? A. Yes.

Q. Now, let's assume that you had six leggers—— A. Uh-huh.

Q. ——and two of them were absent. Did that ever happen? A. Yes. I believe so.

Q. All right. What did you do? A. Nothing.

Q. There was no need to transfer anyone in? A. I didn't have the authority to transfer anybody.

Q. You would go to Mr. McClain? A. I would just tell him that there was two people absent. That's all.

Q. Well, you testified yesterday that there were a lot of times you couldn't find Mr. McClain, that he was rarely in your area. A. (The witness nodded affirmatively.)

Q. What would happen? Would the work just stay there [378] until you found him? A. Yes. Yes. The work wouldn't just stay there. There was other pressers. They would start pressing.

Q. Well, if you have six leggers and two are absent, doesn't the work build up? A. I imagine so.

Q. Well, what do you do when the work builds up and the four presses are overloaded? A. Nothing.

Q. Nothing. You just sit there and you watch it all day? A. No. I just don't sit there. I have other things to do.

Q. What else did you do? A. I told you. I had to see that everybody had the material to work with.

Q. How much of your time does it take to see that people have material to work with? A. In that particular job, quite a bit.

Q. That's the first thing you do in the day after the gum sheets and absentees, right? A. Plus I had to pick up the counts.

Q. All right. Now, how long does it take to find out whether people need things to be brought to them and to get things to them? [379] A. Well, they didn't need everything at one time.

Q. Of course not. You don't mean to mislead this Court into thinking that that's how you spent your day. A. No.

Mr. Linton: I object. Your Honor, I object to this "you don't mean to mislead this Court." That is trying to inject an inference here that the witness is trying to mislead. It is implied in the question.

Judge Goerlich: I don't think the witness is trying to mislead the Court.

Go ahead. Tell Mr. Rolnick what you did every day and would you commence the very first thing with the passing out of gum sheets and tell us the best you can recollect what you would normally do in a day.

Mr. Rolnick, I would appreciate if you would let him describe it all and then if you want to pick up the pieces, you may.

Mr. Rolnick: Your Honor, the problem that I have in this is the witness is testifying as to certain things that he did during the day. O.K. But he is not bringing it out in the routine that a supervisor has. There is a specific routine of supervision in a garment plant.

The Witness: I wasn't a supervisor.

Mr. Rolnick: Things come up every day.

[380] Judge Goerlich: Well, what happens at any other garment plant is not relevant to this proceeding, Mr. Rolnick. The only thing that is relevant is what this individual does. I can't find that—For example, I might say I've heard not one but several cases involving garment plants. I can't draw on my own experience of what has been disclosed to me in other garment plants for making a finding in this case.

Mr. Rolnick: I'm aware——

Judge Goerlich: I've got to base whatever my finding is upon the testimony of this witness and others who describe what his activities is.

Now, Mr. Patlan, what I would like to have you do, and I am sure it is what Mr. Rolnick has in mind, I want you to

tell us what you generally did each day as an assistant supervisor. I understand that was the title that you were told you would have.

Now, you did start out in the morning and passed out the gum sheets to various employees. Then, as I understand it, you also obtained materials and gave them to the various employees so that the employees could commence working on them if they were lacking in any materials to work on.

Now, would you go ahead? What else did you do during the day?

[381] The Witness: Well, the inspectors, the production that they would turn back because of poor workmanship or something, I would take them—They had boxes. Each one of them had boxes in front of them and as the boxes filled up, I would take them out and whatever work that needed to be done, I would take it to that individual so it could be done.

Q. (By Mr. Rolnick) What, if anything, did you do as far as determining quality? A. None.

Q. You didn't make any decision at all as to whether a garment would pass quality or not? A. A couple of times I did, yes. I was never——

Q. That was part of your job, wasn't it, Mr. Patlan? A. I was never informed what quality was. As a matter of fact, I asked Mr. McClain once how bad does it have to be wrinkled before you can let it go through and he told me, he says, "Well, look at it. Would you buy it in a store?" And that was it. And I went back——

Q. And that was the benchmark or the guideline that you followed whether or not you felt it would qualify? A. The inspectors were there for quality. They were the ones that were supposed to be instructed on what quality is.

Q. Who checks the inspectors, Mr. Patlan?

[382] Mr. Linton: Your Honor, I object to not letting the witness finish his answer.

Judge Goerlich: You may answer the question. Who checks the inspectors?

The Witness: I don't know.

Q. (By Mr. Rolnick) Wasn't that your job, Mr. Patlan?

A. Nobody ever told me that was my job, no, sir.

Q. Mr. Patlan, were there times when the inspector would have to call you over to find out whether a garment would pass or not? A. Yes.

Q. And you made that decision whether or not it would pass? A. On several occasions I did. Other times I even went into the office looking for Mr. McClain with a pair of pants to ask him whether that was, you know, what was wrong with them.

Q. That's right. You were a new supervisor and when you weren't sure you went to Mr. McClain to find—— A. No, I wasn't a supervisor. No.

Q. You had a title of assistant supervisor. Is that correct? A. I had the title, yes.

Q. In your position as assistant supervisor, the title that you had with the Company, when you had a doubt about [383] something you would go to Mr. McClain and you would ask him whether or not this was O.K. A. Uh-huh.

Q. Is that correct? A. Yes.

Q. And Mr. McClain was trying to bring you along in your job and help you. Is that right? A. Yes.

Q. You didn't know all the things that there were to know about your job, did you? A. No, I didn't.

Q. But slowly you were learning the job? A. I think I was.

Q. Now, there were times when a quality problem came up, you would bring it to Mr. McClain? A. Yes.

Q. All right. There were other times when an inspector brought a quality problem to your attention that you would decide whether it would pass? A. Yes. That's right.

Judge Goerlich: How often did that happen?

The Witness: Very few times. Just on several occasions. Not very often.

Judge Goerlich: Go ahead.

Q. (By Mr. Rolnick) And on those occasions the decision [384] of whether or not to pass the garment was yours, not the inspector's? A. Yes. Exactly.

Q. And they could get this decision either from you or from Mr. McClain? A. Uh-huh.

Q. You'll have to answer, sir, because the court reporter doesn't pick up nods. A. Yes.

Q. Now, you were told by Mr. McClain to keep a certain number of dozen in the line. Is that right? A. On the floor you mean?

Q. Right. A. Yes.

Q. And if you were having trouble getting that amount of production out, that you should work the employees overtime? A. Right.

Q. And you would then look around at the amount of work on the floor and decided whether or not the employees would need to work overtime. A. As I said yesterday, that only happened on several occasions, twice at the most.

Q. And it happened near the end of your employment, didn't it? [385] A. I believe so.

Q. And this was at a time at which you were on the job then for about what, five weeks? A. Something like that.

Q. So when you started your work you didn't know very much about it but as you continued along, you learned more and more about what your job duties were. Isn't that correct? A. I learned what the work was about, yes.

Q. Now, when employees were absent—Strike that.

In order to make sure that the production was completed, did you have to observe whether or not there were overloads at any point in the process? A. Yes.

Q. What would happen if there were overloads? A. Mr. McClain would tell me to shift somebody from one press department to another press department to even it out.

Q. Is this called, generally the term used, balancing the lines? A. I'm familiar with the words but I don't think I heard the phrase there.

Q. O.K. But you shift people from one portion to the other for what reason? A. To balance it so that both sides are——

[386] Q. So that you get an even flow of work? A. Yes.

Q. Now, if you noticed that the work was uneven, would you always have to go to Mr. McClain or were there times when you, yourself, could know to move someone? A. No. I was never told that I could do that. I was never told this is your job, if it not even, balance it out and this is what you are supposed to do. I was never told that, no.

Q. Did you ever do it? A. No.

Q. You never moved anyone without Mr. McClain's giving permission? A. I moved but I didn't—They weren't moved because of that.

Q. Were there ever occasions in which work was slow in one particular job function and therefore you had to take

an employee and put them on something else? A. In the—
The only time that anybody was shifted like that would be
on the press department.

Q. All right. Now, when you had some shortage of work,
say, in the press department, would you then take employees
and put them on other jobs? A. No, I wouldn't.

[387] Q. Did you ever move employees to sorting, for example?
A. On my own, no, but they were moved.

Q. Mr. Patlan, if a witness comes in here tomorrow and
testifies that you on your own told her to go over to sorting,
is she going to be incorrect?

Mr. Linton: Your Honor, I object to that.

A. Probably so.

Mr. Linton: That is not proper.

Judge Goerlich: That is an improper question, Mr. Rolnick.
It presumes something that is not in evidence. That assumes a
witness is going to show up to testify in that manner. Maybe
when she gets on the stand she might not recite what you think
she will. That happens once in a great while, you know. Law-
yers look mighty startled under those circumstances.

Did Mr. McClain tell you what wage you would receive
when you were to be advanced in wages?

The Witness: Eight and a half cents an hour.

Judge Goerlich: Eight and a half cents an hour over what
you were getting?

The Witness: Over \$1.60.

Judge Goerlich: Did he indicate to you when you would
get the amount of money?

The Witness: Pardon me?

Judge Goerlich: Did he indicate when you would get [388] that amount of money?

The Witness: No.

Q. (By Mr. Rolnick) Did employees ever ask you for time off? A. Yes.

Q. Did you ever give an employee time off? A. No.

Q. Did you ever tell an employee that it was O.K. for her to leave, that you would go ahead and tell Billy? A. I don't believe so, no.

Q. Were you ever assigned to a machine after you became assistant supervisor? A. No.

Judge Goerlich: How many weeks were you in that classification?

The Witness: As what now?

Judge Goerlich: The classification of assistant supervisor. How many weeks were you in that?

The Witness: Around five weeks.

Judge Goerlich: Five weeks before you were discharged?

The Witness: (Nodded affirmatively.)

Q. (By Mr. Rolnick) How long would it take you to find Mr. McClain? A. Depends on where he was at.

Q. Well, let's assume that he was not in the department [389] at the time. A. Well, sometimes I would just turn around and he would be there. Other times I would have to go to the warehouse or the office.

Q. Were there ever times that he wasn't in the plant? A. Yes.

Q. What would you do then? A. I would look for Carlos.

Q. You looked for Carlos for him to tell you what to do?
A. Yes. Not to tell me. I would ask him what problem I had and see what I could do about it.

Q. Such as what? Give me an example.

Judge Goerlich: When you refer to Carlos, are you referring to Carlos Juarez?

The Witness: Yes, sir. Mr. Juarez, yes.

Judge Goerlich: Go ahead. Answer the question.

A. Would you repeat that, please?

Q. (By Mr. Rolnick) Give me an example of the problem that you would take to Carlos when Mr. McClain was not there.
A. There was some things that I didn't know where to get them or certain items I didn't—Sometimes in the finishing where they were, after the production was coming out of the oven and they were sorting them in [390] sizes and styles, I wouldn't know exactly where they were going to put that lot or that style, where they were going to put them in back of the warehouse.

Q. Did you ever go to Mr. Juarez and ask him where employees should be assigned, where you should put them? A. No. Because by the time they got there they were already assigned.

Q. All right.

Now, during the day did it ever happen that employees ran low of work and had to be put elsewhere? A. I don't—I don't really think so.

Q. It is your testimony that during the five weeks that you were there on no occasion did employees run low of work and have to be transferred elsewhere? A. I remember one occasion when the work did run low and they were sent home early.

Q. What about being transferred to sorting or repairs or put on repress? A. No.

Q. What about cleanup? A. No.

Q. Well, you testified yesterday that there was an occasion on which employees were assigned to cleanup. A. On Saturdays, I said.

Q. No. It wasn't Saturday. It was Friday, wasn't it? [391]
A. One occasion that you are talking about and that was—It wasn't a normal day to begin with. There was a lot of things that had to get done there that day.

Q. Mr. Patlan, I'm not asking whether it was normal or abnormal. I'm asking you did it happen. A. Yes, it did.

Q. All right.

Now, were there ever occasions, normal or abnormal, on which employees were assigned to sort seconds, taken off their regular job? A. Yes.

Q. Were there other occasions on which employees were given repair work to do instead of their normal job? A. Repair work? I don't believe so. The girls that were on repair work, they were there all the time. They never—The only time somebody else was added on there was I believe a new employee.

Q. Where would repair work be done, Mr. Patlan? A. By the buttonhole machines.

Q. By the buttonhole machines. Would it be on a buttonhole machine? A. No.

Q. There were a certain number of buttonhole machines and that number of buttonhole operators, right? A. Yes.

[392] Q. So that if a buttonhole operator was asked to do repair work she would have to move to another machine? A. Yes.

Q. Did it ever happen that a buttonhole operator was asked to do repair work? A. Not to my knowledge, no.

Q. If it did happen, did you ever transfer a buttonhole operator to repair work? A. No, I didn't.

Q. Let me show you what has I believe been identified as Respondent's 6, is that correct, and ask you what that means.

Mr. Linton: May I see the exhibit, please?

A. Oh, you are correct.

Mr. Linton: Just a moment.

Judge Goerlich: He is correct in what, Mr. Patlan?

The Witness: There was one occasion when that girl was put on repair.

Judge Goerlich: Well, did you do it?

The Witness: Not under my own personal—I was told to put her on. I am trying to think. If I am not mistaken, that wasn't too long before the, before we were going to have the open house, I believe, and they wanted to clear up the back and there was some, quite a bit of material in boxes that they wanted to get out of the way [393] and had to be repaired so they put this girl on there because I believe at that time the buttonholes, they had quite a bit of production done already.

Judge Goerlich: Did you make the transfer?

The Witness: I put her on there but not on my own. I conveyed a message.

Judge Goerlich: Who did you receive the message from?

The Witness: Mr. McClain.

Judge Goerlich: Go ahead, Mr. Rolnick.

Q. (By Mr. Rolnick) And he told you specifically who to put on the repair work? A. Yes.

Q. And it is your testimony this was before the open house? A. I believe it was. I know it was because of something. Something had to be, had to be, had to be done to get it out of the way.

Q. Well, think back. if you would, and give us your best recollection of when Beatrice Ferenza was transferred to repair work as a buttonhole operator. A. I don't believe that was even all day. I think that was just a short while.

Q. Transferred for a short while. Is that right? A. I believe so.

[394] Q. In fact—What? A. As far as I remember she was always on the buttonhole machine.

Q. That's right. And in fact she was—It was a Friday after the open house, wasn't it? A. I don't know what the date was.

Q. Well, how about looking at the date and maybe that will refresh your recollection? A. What was the date of the open house? I don't remember that.

Q. Well, the testimony in this hearing that the open house was December 4 or 5. In fact, you were discharged on Monday, the 10th, and the document you have in your hands, Respondent's Exhibit 6, indicates that the repair work was Friday, December 7, doesn't it? A. Uh-huh.

Q. Now, is it still your testimony that you didn't make that assignment? A. I never said I didn't make that assignment.

Q. Is it your testimony that you got instructions from Mr. McClain as to the specific person to move? A. Yes, sir.

Q. Now, when she finished that repair work, who put her back? A. She did. She put herself back. By the time I went [395] back—Mr. McClain had asked me if that work was out of the way and by the time I went back there she had already finished it and she was back on her machine.

Q. How often—— A. As you can see on here, it has got 8:45, started to repair, and by the time I came back she had already started. I didn't have time to put down what time she started.

Q. That's right. But you authorized that she be paid for that time. A. I authorized?

Q. You signed for it, didn't you? If that is authorizing, yes, I guess I did.

Q. She wouldn't be paid for it if it wasn't signed, would she?

Judge Goerlich: We went through that yesterday about twice or three times and I think the record is clear on what his functions were in connection with filling out the gum sheets. I'll decide whether that is an exercise of supervisory authority within the meaning of the Act.

Q. (By Mr. Rolnick) How often during the last few weeks that you were employed there did Mr. McClain give direct orders to the employees? A. I don't know, sir. I don't remember.

[396] Q. Well, isn't it a fact that he very rarely spoke directly to the employees but instead gave all instructions to you? A. I was never with him all the time. I don't know.

Q. Well, he wasn't even in the area most of the time was he, Mr. Patlan? A. I don't know if he talked to employees or not. There was times when the employee would be moved out and I wouldn't even know about it until afterwards. I would go up to him and I would ask him what happened and he told me that he needed them in the back or something.

Q. And there were times when employees would be moved and Mr. McClain wasn't even in the plant. A. Probably so, yes.

Q. Who moved them? A. I did. I've already stated that on several occasions I did move employees.

Q. What about the assignment of overtime? When Mr. McClain wasn't around did you decide if employees would work overtime? A. Sometimes I did, yes.

Q. What about inspectors? A. Yes.

Q. And did you decide who would work overtime? [397]
A. Usually if one, they all stayed. It wouldn't be individuals.

Q. Well, was there ever an occasion on which they didn't all stay, that some stayed overtime and some went home? A. Well, I'm talking about——

Q. When Mr. McClain was not there. A. I'm talking about departments. If the inspectors were going to stay, they would all stay.

Q. Are you certain of that? A. Yes.

Mr. Rolnick: Just identify these as the next four, 7, 8, 9, and 10.

(The documents above-referred to were marked Respondent's Exhibits No. 7, 8, 9, and 10 for identification.)

Q. (By Mr. Rolnick) Was there ever an occasion on which Mr. McClain was absent or not in the area for some reason and the inspectors were assigned to work overtime? A. If I can remember correctly, I believe there was only one day that Mr. McClain was absent.

Q. All right. And on that day the inspectors worked overtime, didn't they? A. Mr. McClain wasn't gone all day. He was in twice [398] that day.

Q. Is it your testimony that on the day in question Mr. McClain came in and he told you who to work overtime and who not to work overtime? A. No. That isn't my testimony. I said that he was in twice that day.

Q. Well, did he tell you who to work overtime that day? A. I don't remember, no.

Q. In fact, some people worked overtime and others did not, didn't they? A. I can't recall that specific day.

Q. Well, I'll show you the time cards in a moment. A. O.K. Fine. If that is what it is, yes.

Judge Goerlich: Well, now, the important thing is simply whether or not you exercised independent judgment in deter-

mining that they worked overtime. Now, did you decide that certain employees were going to work overtime?

The Witness: Yes. Yes.

Judge Goerlich: All right. What was the basis of your decision? Why did you ask them to work overtime?

The Witness: Well, if it was the inspectors, probably because there was more production than should be on the floor.

Mr. Linton: Your Honor, I think we had that testimony [399] yesterday actually. He spoke about the guidelines laid by, or the rule by Mr. McClain yesterday.

Judge Goerlich: Well, what I want to know is what—You told some inspectors to work overtime. Is that right?

The Witness: Yes.

Judge Goerlich: Do you know how many it was? One, two, three, four?

The Witness: I don't remember, sir.

Judge Goerlich: All right.

Now, what I want to know is on what basis did you determine whether to tell these inspectors to work overtime? Do you understand my question?

The Witness: On what basis I told them to stay?

Judge Goerlich: Yes. Why did you do it?

The Witness: Because I could see that there was too much production on the floor.

Judge Goerlich: Now, what had Mr. McClain said to you about overtime in connection with whether you should tell people to stay or tell them to go home or what?

The Witness: Depending—Well, he told me depending on how much production was on the floor. He gave me—I can't re-

member the exact figure. He said if there is so many benches out there per each worker, then if there is more than that amount they should stay [400] and if not, they can go home at the regular hour.

Judge Goerlich: Very well.

Go ahead, Mr. Rolnick.

One question, Mr. Linton, which I am hopeful you will comment on when you write your brief. It strikes me from the testimony of this witness that there is a possibility that the employer intended to make this man a full-fledged supervisor. It may be that testimony won't show that he exercised that authority during the five weeks he was on. The question that concerns me is whether or not if actually an employer indicates to an employee that after a certain period of training he will become a full-fledged supervisor that whether or not during that period in which he is training he is considered a supervisor within the meaning of the Act.

You may comment on that, too, Mr. Rolnick, when you write your brief.

Mr. Rolnick: Well, I believe, your Honor, the law is whether or not he has been given the authority whether or not he has exercised that authority.

Judge Goerlich: Well, it's a matter of exercise not a matter of having been given, as I understand it.

Mr. Rolnick: That's correct.

Q. (By Mr. Rolnick) During the last few weeks that you were employed did you not begin to exercise the [401] decision of working people overtime without telling Mr. McClain? A. Yes. On several occasions I did.

Q. Particularly the inspectors? A. Yes.

Q. When they needed to work overtime you would get them to work overtime without telling Mr. McClain? A. Sometimes, yes.

Q. And what happened when you told Mr. McClain thereafter that you were going to keep inspectors overtime? What did he say? A. He told me it was all right, that they were my employees, that I could keep them.

Q. Do you recall his exact words? You quoted them in your affidavit. A. I——

Q. Well, let me ask you did you or did you not say in your affidavit, "I told McClain I was going to keep them," referring to the inspectors, "overtime and he said 'Go ahead, they are yours.'" A. Yes.

Q. Isn't that what is in your affidavit? A. Yes.

Mr. Linton: What portion? You referred to page 4 of the affidavit?

[402] Q. (By Mr. Rolnick) Let me show you page 4 of the affidavit and ask you if what I read was not a direct quote from the affidavit. A. Yes. You are correct.

Q. So when Mr. McClain told you——

Judge Goerlich: Does that refresh your recollection of what Mr. McClain said to you?

The Witness: Yes, sir.

Judge Goerlich: Is it as stated in your affidavit?

The Witness: Yes, sir. It's correct.

Judge Goerlich: Very well. Go ahead, Mr. Rolnick.

Q. (By Mr. Rolnick) Now, let me hand you what has been marked for identification as Respondent's Exhibit 7—Strike that, please.

When Mr. McClain was out on the day in question did you make the decision that day on who would work overtime? A. I believe I did.

Q. Did you also make the decisions on whether employees could be excused that day? A. I don't remember if I did or not.

Q. Well, if an employee left early that day would you have given permission to leave? A. Probably so, yes.

Q. That's even though the remaining inspectors worked [403] overtime that day? A. Yes.

Q. Now, who would decide for the very next day whether or not those inspectors would have come in and worked? A. I don't follow your question. The next day? They came in every day. That was their job. They came in every day.

Q. All right.

Who would decide——

Mr. McClain missed one day. Is that right? A. To the best of my knowledge, yes.

* * * * *

[407] Q. Did you transfer Mr. Sosa at any time from his job as legger to loading trucks? A. Mr. McClain did, yes.

Q. Mr. McClain did. You did not? [408] A. No.

Q. So that you never spoke to Mr. Sosa about moving? A. I told him he had to go back, he was going to be working in the warehouse.

Q. Let me ask you this, Mr. Patlan, about the following job classifications in the finishing department. Did you have bundle boys working in the finishing department? A. On a couple of occasions, yes.

Q. And daily at least one, Mr. Santoya? A. Oh, well——

Judge Goerlich: We went into bundle boys yesterday.

Mr. Rolnick: I'm going into job classifications, your Honor. If the witness will acknowledge that these are the classifications in his area, we will save some time.

Judge Goerlich: He said yesterday he had never heard bundle boy before you mentioned it in court.

Mr. Rolnick: Then immediately he picked it up in the very next question and used it.

The Witness: Well, I learn from everybody.

Judge Goerlich: What is your recollection as of this morning so we can clarify the situation about bundle boys? Do you remember whether or not that term was used in the plant?

The Witness: It was not used as far as I was [409] concerned.

Judge Goerlich: Very well.

Q. (By Mr. Rolnick) Did you have buttonhole operators? A. Yes.

Q. Did you have toppers? A. Yes.

Q. Top press? A. Uh-huh.

Q. Did you have leggers, leg press? A. Yes.

Q. Did you have inspectors? A. Yes.

Q. Did you have sort and tag from oven operators? A. Yes.

Q. Did you have oven operators? A. No.

Q. That was not under your responsibility? A. No. I believe the janitor would sometimes turn it on or something, night watchman.

Q. What about the people that ran the oven? A. I don't know who ran it.

Q. Did you have people that hung the goods after they came out of the oven? A. That hung the goods after they came out?

Q. That hung the goods as they went into the oven? [410]
A. Yes.

Judge Goerlich: Are those called hangmen?

Mr. Rolnick: I think we use the term hangers.

Q. (By Mr. Rolnick) Did you have zipper operators? A. Women that worked on the zipper machines, yes.

Q. Did you have employees that attached zipper slides? A. Yes.

Q. Did you have employees that cut elastic? A. Cut what?

Q. Elastic. A. Yes.

Q. Did you have repair operators? A. Yes.

Q. Did you have knee patch operators? A. They were in the area but I was never specifically told anything about them.

Q. You didn't bring work to them? A. No.

Q. Mr. Patlan, as part of your job as assistant supervisor did you make any decisions that were not ordinarily made by other employees such as pressing operators, repair operators? A. I believe I did.

Q. Did Mr. McClain consult you about the work that was in progress in your area? [411] A. Yes.

Q. Did he look to you to see that the work in your area was moving along satisfactorily?

Judge Goerlich: Do you understand that question?

The Witness: I don't understand what he means looked at me.

Q. (By Mr. Rolnick) Did he come to you to make sure that the work was proceeding through the area on schedule——

Mr. Linton: Well, your Honor, I object——

Q. (By Mr. Rolnick) ——as opposed to someone like a press operator?

Mr. Linton: May I make an objection, please? This calls for the witness to speculate about what was in the mind of Mr. McClain.

Judge Goerlich: I'll sustain the objection to the question. If you want to inquire as to what discussion he and Mr. McClain had as to the progress of the work, I think that is proper, or whether Mr. McClain said to him you must report to me the progress that is going on here or something of that character. But I think you are asking him, as Mr. Linton suggested, to state what was in the mind of Mr. McClain. It might not have been stated.

Q. (By Mr. Rolnick) When Mr. McClain came into the department to check on the progress of the work would he [412] come up to you and discuss it with you? A. He would—Sometimes he would come up and ask me to show him the count of what production was going on.

Q. Check overloads? A. (The witness nodded affirmatively.)

Q. Were you the person in finishing that he would come up to and discuss that? A. Yes.

Judge Goerlich: Well, was there a certain amount that was established for production for a day?

The Witness: Well, I believe it was what was coming in from Piedras Negras, what they had brought in the night before. I'm really not sure but I believe that is the way it was.

Judge Goerlich: Well, was there a certain number of pants supposed to be pressed and ready for shipment out of your department every day? Was that established? A hundred pair, 62 pairs, or how many pairs?

The Witness: Well—

Judge Goerlich: Was some quota set up by Mr. McClain or by the Company that was transmitted to you that was supposed to be accomplished that day?

The Witness: I believe—Well, not—I wasn't—It was never said so much has got to be out but I do remember Mr. McClain on several occasions telling me [413] that, when he would look at the count that I had on the paper he would say that it is just a little below what it should be.

Judge Goerlich: Well, did you ever know what it should be? Were you told?

The Witness: I believe—No. I believe he did tell me. I believe I was told how much was supposed to be averaged for it to balance out.

Judge Goerlich: For a day?

The Witness: Yes. For a day, I believe.

Judge Goerlich: Well, now, were there any occasions when you went to Mr. McClain and said we are not reaching this particular count or quota?

The Witness: No, sir.

Judge Goerlich: Did he ever come to you and tell you that it wasn't being reached?

The Witness: I believe he did, yes.

Judge Goerlich: Did he instruct you what to do about it or what was your reaction to that information?

The Witness: Well, a lot of times he would look on the sheet and he could tell by the count on each employee if somebody was doing a lot more than the other or if one section was doing more, one department was doing more.

Judge Goerlich: Well, did he take any action in [414] respect to that information?

The Witness: Well, he would—If one employee was down a lot more than the other, he would tell me to see why this employee wasn't putting out with the rest or if the department

wasn't balanced out, which ones to move over so it would balance out.

Judge Goerlich: Well, when you went to an employee to inquire why the employee wasn't meeting her quota or his quota, would you report that to Mr. McClain?

The Witness: No.

Judge Goerlich: Well, what action did you take, if any, in regard to the employee who was not producing the amount that Mr. McClain thought that she or he ought to?

The Witness: Well, none, because I was never told if they go below this, this is what you are supposed to do or see me about it or get this done. Some days he would look at it and it would be low and he wouldn't say anything. Other days he would say they are too low or whatever.

Judge Goerlich: On a day when he said it was too low what would he tell you in regard to that? Did he tell you anything to do about it?

The Witness: To find out why. To find out from the employee why they weren't doing the production.

[415] Judge Goerlich: All right.

Now, let's go through it again. You went over to the employee and asked him why he was low on production. Is that right?

The Witness: Uh-huh.

Judge Goerlich: What did you do with that information?

The Witness: I just conveyed it to the employee. That's all.

Judge Goerlich: You told the employee that they were not producing enough?

The Witness: Yes.

Judge Goerlich: Oh, I see. Well, you said that you tried to find out why.

The Witness: Well, I would walk over there and I would just ask him what's the matter, how come everybody is way past you. You are not doing—Even some of the women—If it was a man I would tell him even some of the women are putting out a lot more than you.

Judge Goerlich: All right.

Now, after you had that information did you convey that to Mr. McClain if the employee answered? So the employee said, well, my machine has been down. The employee said I was pitching baseball last night and my fingers are stiff or something of that character. [416] I'm being a little facetious, but you understand what I mean. What would you do with that information?

The Witness: I—Sometimes I would tell Mr. McClain if there was something serious but otherwise I wouldn't.

Judge Goerlich: Very well.

Go ahead, Mr. Rolnick.

Q. (By Mr. Rolnick) If the employee was having a problem would you try and help them with it, help solve the problem?
A. Yes.

Q. Did you see to it that the employees returned from their breaks and got back to work on time? A. Well, they had an alarm on the clock, on the punch clock, but sometimes that wasn't working so we would have to inform them.

Q. What was the purpose of seeing that the employees got back from their breaks on time? A. The break was over.

Q. All right. But why did they have to be back when the break was over? A. To return to their jobs.

Q. Why? A. That is what they are there for.

Q. O.K. That was part of your job to see that they [417] got back. A. I—You could say that.

Q. And speak to them if they did not? A. Yeah. Well, yeah.

Q. Because if they didn't get back to work and there was, say, a presser or two missing from the leg press area, that would become overloaded, right? A. I don't understand.

Q. If they stayed off the job for a period of time you would have an overload or a lack of balance in their particular job classification, right? A. I don't think it would be that drastic.

Q. Well, if they stayed off for half an hour wouldn't you get, become out of balance? A. I never looked at it that way.

Q. Well, didn't Mr. McClain tell you to keep a certain number of dozen moving through the lines? Wasn't that the specific job that he assigned to you? A. Not—It was never told that way to me.

Judge Goerlich: Well, now——

Q. (By Mr. Rolnick) Didn't you know, Mr. Patlan, that that was your job to get the goods moving through the lines and prevent overloads? A. It wasn't specifically my job, no.

Q. Well, whose job was it, the leg pressers? [418] A. It might have been.

Q. Oh, come on.

Judge Goerlich: Getting back to the matter of——

Q. (By Mr. Rolnick) I remind you you are under oath.

Judge Goerlick: ——rest periods, Mr. Patlan. You said that there were certain occasions when the bell didn't function and you informed employees to go back to work.

The Witness: Yes, sir.

Judge Goerlich: Now, were there any occasions—How long were the rest periods?

The Witness: I believe they were 10, 15 minutes. 15 minutes, I believe.

Judge Goerlich: Very well. When a rest period concluded were there any occasions when the employees didn't respond and return to work?

The Witness: Sometimes they were slow but they eventually got out there.

Judge Goerlich: Now, assuming that an employee was slow in getting back to his or her job, did you take any action in regard to that employee? If so, what was it?

The Witness: No. I don't believe that ever came up.

Judge Goerlich: Very well.

Q. (By Mr. Rolnick) Did Mr. McClain ever take pressers [419] off the line and move them elsewhere? A. Yes, sir.

Q. Did he ever come to you and tell you to take two or three leggers and send them to the warehouse? A. Yes, sir.

Q. And did you do it? A. Yes.

Q. And did you decide who you were sending? A. Well, there wasn't much to decide. There was usually——

Q. There were 10 leggers, Mr. Patlan. Who decided which of the two or three you were going to send? You said yesterday Mr. McClain didn't tell you who to send. A. Because I already knew. He always picked the same ones. He knew which ones did the work, which ones would work, so he always wanted—If he was going to send them to the back it was because a job had to get done right away, it was something that had to be out of the way, and he knew which employees were going to work so those would be the same ones that he would—After a while I didn't ask any more. They were the ones he was putting back there.

Q. In other words, Mr. Patlan——

Judge Goerlich: That is the same testimony he gave yesterday, Mr. Rolnick. I don't see any point in going [420] into it again.

Mr. Rolnick: I would like to ask one more question if I may.

Judge Goerlich: All right. You may. But I don't want to go into what we had yesterday.

Mr. Rolnick: Fine.

Q. (By Mr. Rolnick) Mr. Patlan, in your position as assistant supervisor you were expected to know the ability of the people that were in that area, weren't you?

Mr. Linton: Object to that. He is asking the witness to say what the employer expected. The witness doesn't know what was in the employer's mind.

Judge Goerlich: Do you understand that question?

The Witness: Yes.

Judge Goerlich: You may answer it if you understand it.

The Witness: I believe I—Well, I—Just be being with them I knew who was working and who was doing what work.

Q. (By Mr. Rolnick) Who was a good worker and who was a bad worker? A. Sure. Anybody could observe that after being around.

Q. And after you had been on the job for awhile you [421] knew who Mr. McClain would want in a certain situation? A. Sure. Exactly.

Q. And all he would have to tell you is, "Mr. Patlan, we need two or three leggers to go to the warehouse," and you would know who to select. A. Well, not necessarily, because sometimes he wanted some of the men or he would want women, depending on the work it was. So I would ask——

Q. All right. But there were other times which all he would say to you is get me two or three leggers and you would go take them out of the line and send them to the warehouse, right?
A. Yes.

* * * * *

[424] Q. (By Mr. Rolnick) Let's go to the last day, the day of your discharge, Monday, December 10, 1973. A. Uh-huh.

Q. What was the first thing you did that morning? A. What I explained before. Come in and give the gum sheets out.

Q. All right. Now, you said there was something unusual happened that day aside from the fact that you were discharged.
A. Oh.

Q. What was that? A. Well, I knew—I knew because we had had the meetings and I knew that somebody had seen Mr. Salgado [425] out there and from what, from what we had heard from Mr. Rodriguez about if we didn't move fast enough that the Company was going to find out and something would happen——

Q. Now, I'm going to interrupt you for a moment and move that we strike that because I asked you what was unusual and that's not responding to the question I asked. I believe on your direct examination you said that what was unusual that morning was that you observed that Mr. McClain was absent. Wasn't that what was unusual that morning? A. That he wasn't around. I didn't see him around the area.

Q. Well, when was the first time that you saw him around that morning? A. I don't remember exactly what time it was.

Q. What time did you start? A. 7:00, I believe.

Q. Did you see him at 7:00? A. I don't think so.

Q. Did you see him at 8:00? A. I don't know.

Q. Give me an approximation of the first time you saw Mr. McClain in the finishing area that day. A. I can't recall——

[426] Judge Goerlich: Well, did you see him that day?

The Witness: I saw him that day, yes, sir.

Judge Goerlich: How many times did you see him that day?

The Witness: A couple of times, two or three times, I think.

Judge Goerlich: Did you see him before lunch or after lunch?

The Witness: I really can't remember, sir. If I saw him it had to have been sometime in the morning and sometime in the afternoon if I saw him two or three times.

Judge Goerlich: Did you see him with someone or was he by himself?

The Witness: I remember seeing him with someone else.

Judge Goerlich: Who did you see him with on the first occasion?

The Witness: The only time I remember seeing him was when he was with Mr. Stubblefield.

Judge Goerlich: Very well.

Go ahead, Mr. Rolnick.

Q. (By Mr. Rolnick) When was the first time that day that you had any conversation of any kind with Mr. McClain?

[427] A. I don't remember.

Judge Goerlich: Did you have a conversation with him?

Q. (By Mr. Rolnick) Did you have a conversation that morning? A. I don't—I don't believe I did.

Q. Well, what did you do first thing that morning? A. Well, I told you. I came in and I probably, I started what I usually did, give out the gum sheets, and see who was there and who wasn't, see if anybody needed anything, start the normal working day.

Q. The normal work day. Now, let's talk about a normal work day for leg pressers. What is the normal work day? A. Come in and press.

Q. Press what? A. Slacks, pants.

Q. Do you have an order left over from the week before or do you start a new order? Who decides who is going to do what? A. They are there from the day before.

Q. They are there from the day before and an employee automatically continues doing whatever they did before? A. Exactly. They always did.

Q. You wouldn't have to tell them anything to do? [428] A. The only time I ever told them is sometimes they wouldn't, sometimes there would be—One lot would finish and another one would start and some of the pressers had a tendency to pick the smaller bundles or something and I would just make sure that they take all of one lot at one time so it would go through.

Q. Now, there were times when you would have to stop a lot in the middle and put another lot through if it was an emergency order, wouldn't you? A. I don't remember doing that, no.

Q. There were times that you would have to send a lot through instead of doing repress work. You would make sure that you got a lot through. A. I don't remember that, no.

Q. You don't remember that at all? A. I don't remember that.

Q. In other words, your testimony is if there was repress work you just started on the repress work. You didn't bother to worry about whether a lot had to go through. A. If there was repress work it was kept apart from the regular production and when it started piling up, that's when somebody would be put on repress.

Q. All right. Who decided who would go on repress? A. I did on several occasions.

[429] Q. Would you put your best or your worst employee on repress? A. Well, what I had started to do—Well, they used to—Mr. McClain—Well, one time I believe we had all of them doing repress. I'm not sure.

Q. All right. Let's take the last week that you were there and the last day. A. Yes.

Q. This is a time when the piece rate system was in effect, right? Now, did you assign your best or your worst worker to repress? A. On those last days? On the Saturday before that Monday I was told by Mr. McClain to put the repress, all the repress production, put it by, that Sosa was going to be repressing Monday. So I got a hand truck and I moved the boxes of all the repress and put them over by his machine so they would be ready for him Monday.

Q. O.K. Now, you said during that day that you noticed Mr. Stubblefield and Mr. McClain— A. Yes.

Q. —and that they were looking somewhere. A. They were standing over on the side by the, by the buttonhole machines and they were having a conversation, looking over the employees or the plant, I don't know.

Q. Looking at employees in the plant? [430] A. Well, just looking out in the area.

Q. Now, in other words looking in all areas? A. Not in all areas. I didn't stand there and look at them all day. I just happened to glance over and when I did they happened to be looking towards my direction.

Q. Looking at your direction. Where were you at? A. Somewhere in the middle between the leg pressers and the inspectors, I believe. By the inspectors.

Q. All right. When you saw them they happened to be looking your direction. Do you know whether they were looking other directions as well while you were out there? A. No. Like I said, I didn't stand there and stare at them.

Q. All right. You don't want to lead us to conclude that they were out there looking at you, do you? A. No.

Q. They were not out there looking specifically at the leg press area, were they? A. I don't know what they were looking at.

Q. They were just looking around? A. Uh-huh.

Q. So when you testified yesterday they were looking at the leg press area, that is not totally correct, is it? [431] They were looking in all areas. A. They were looking in that area as I glanced at them.

Q. But they were also looking in other areas, right? A. I believe so.

Mr. Linton: Your Honor, this is really quibbling to——

Mr. Rolnick: It is quibbling so, your Honor, that on page 7 of the witness's affidavit he makes no mention of it at all.

Mr. Linton: I submit, your Honor, this is—He's quibbled down to something that is just almost ridiculous.

Mr. Rolnick: This is very material, your Honor. This witness led us to believe yesterday that the general manager and supervisor of the plant were out there on the day of his discharge looking specifically in an area where he was and where Mr. Sosa was and they would ask you to draw an inference from that, I assume, and yet there is no mention at all of that in this witness's affidavit.

Judge Goerlich: Your point is made.

Q. (By Mr. Rolnick) Is that correct? There is no mention in the affidavit. Do you want to read it? A. Did you?

Q. Yes, I did. Read page 7 and see if there is any mention of them looking at the leg press and inspection [432] area. A. Well, it says here "looked over at me and also at other"——

Q. At me and other employees. Isn't that what the affidavit says? A. Yes. I could have said at the tables or at the chairs or at the bundles.

* * * * *

[433] Q. And you testified that in your judgment it was unusual for Mr. Stubblefield to be in the plant. That is in your statement, isn't it? A. Yes.

* * * * *

[443] Mr. Rolnick: One last question.

Q. (By Mr. Rolnick) On any given day did you have any particular one assignment that you were to do or not do anything else? A. Well, I believe—I believe my main function was to pick up the production count.

Q. All right.

But you didn't have any day in which you sat at a leg press, you were a leg presser for the day? A. That I myself did that?

Q. Right. A. No. I don't believe so.

Q. Now, the other people in the finishing department, they had assigned positions—— A. Yes.

Q. ——and except for the bundle boy who would bring bundles out, Mr. Santoya, you were the only one in the finishing department who had the mobility to move around through all the various people. A. Yes.

Q. By the way, did you ever tell anyone that you were a supervisor? A. I don't remember doing so.

Q. You don't remember? A. No. That would be right, I guess. I probably did.

[444] Mr. Rolnick: I have no further questions.

Judge Goerlich: Mr. Patlan, in regard to Sosa, did Mr. McClain or anyone else ever indicate to you that he was improperly operating the press?

The Witness: He was improperly operating?

Judge Goerlich: Yes.

The Witness: No, sir.

Judge Goerlich: Do you have any further questions, Mr. Linton?

Mr. Linton: Just one or two, your Honor.

Redirect Examination

Q. (By Mr. Linton) Mr. Patlan, you mentioned in answer to one of Counsel's questions about an employee had fallen behind because of a problem and in some situations you would try to help out. Can you cite some of those instances or just what would be the type of thing that you would try to help out on?

A. Well, there wasn't much—Well, if it—I didn't know how to operate any machines so I couldn't—I didn't know the methods they were using. So I would just—I would try to find out the reason why and just bring it up to them that he was behind or something, that maybe by hearing that he would put out more production.

Q. Would some of these times involve, say, like a machine problem, breakdown, mechanic repair problem type [445] thing? A. Yes.

Q. What would you do in that situation? A. Well, if it was a breakdown of machinery, I would try to find a mechanic, find one of the mechanics to work on it.

Q. All right, sir.

You—I believe you were talking about, yesterday about the approximate number of people that worked in the finishing department. You were talking about in the thirties. And then in answer to Mr. Rolnick's question as to whether a possibility of as many as 48, and I believe you said yes.

I would like for you to do your best this morning to list the number of people and job classifications to see how it could be possibly as many as 48. A. Well, there was—On repair I believe there was 3.

Judge Goerlich: Well, now, rather than have him guess about this, obviously the Company has some information showing exactly who was working in that department. I would think that would be the best evidence. You can ask Mr. McClain, who undoubtedly will appear as a witness, to clarify it.

Mr. Linton: Well, your Honor—

Judge Goerlich: Particularly what you have in mind—

[446] Mr. Linton: Well, your Honor, just what I was concerned about is that the witness had mentioned in the thirties and because of the manner of the question I'm concerned as to whether the witness just simply answered in an agreeable fashion without actually thinking and I just wanted him—

Judge Goerlich: Well, after you have reflected upon it, how many employees do you think were in that department, Mr. Patlan? Give your best estimate.

The Witness: Somewhere between 30 and 35.

* * * * *

[455] Whereupon,

JOSE SOSA

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

Judge Goerlich: Give us your full name, please.

The Witness: Jose Sosa.

Judge Goerlich: Would you spell your last name for me?

The Witness: S-o-s-a.

Judge Goerlich: Sosa. You don't say it exactly like I do, do you?

Your address?

The Witness: 1708 Eaton Street, Carrizo Springs, Texas.

Judge Goerlich: And your age?

The Witness: 20.

Judge Goerlich: Go ahead, Mr. Linton.

[456] Direct Examination

Q. (By Mr. Linton) Mr. Sosa, did you work over at Salant Corporation's Carrizo Manufacturing plant here in Carrizo Springs? A. Yes.

Q. About how long did you work there? A. Around seven, two months, I'd say, two months.

Q. Do you recall when your last day was? A. I believe it was on December the 10th.

Q. What day of the week was that? A. Monday.

Q. Were you discharged that day? A. Yes, sir.

Q. Were you here yesterday during the testimony of Mr. Richard Ray concerning the reasons for your discharge? A. Yes.

Q. What kind of work did you do there at least during the last couple of weeks you were there? A. I was presser.

Q. Leg presser? A. Yes.

Q. In the week before you were discharged did you have occasion to attend any meetings of any kind after work? A. Yes.

Q. When was that and what kind of meetings were they?
[457] A. It was on Thursday, December the 6th, and it was a meeting of employees.

Q. Have you ever testified before, Mr. Sosa? A. No, sir.

Q. Well, you may be a little bit nervous but go ahead and speak up loud enough so everyone here can hear and understand you.

Tell us what happened, you say Thursday, December 6? A. Yes, sir.

Q. All right. What about that? A. There was a meeting of all the employees of Carrizo Manufacturing.

Q. All of them, you say? A. Well, we invited everybody we knew.

Q. Did you do some inviting? A. Yes, sir.

Q. All right.

About how many employees attended that meeting? A. 20 to 25.

Judge Goerlich: How many employees did you invite?

The Witness: Around 15.

Judge Goerlich: How many?

The Witness: 15.

Judge Goerlich: Where were these employees when you gave them the invitation to come?

[458] The Witness: During lunch hour.

Judge Goerlich: Where?

The Witness: Outside, the parking lot.

Judge Goerlich: Whose parking lot?

The Witness: The parking lot where you park your cars.

Judge Goerlich: At the Company?

The Witness: Yes.

Judge Goerlich: At lunch time?

The Witness: Yes, sir.

Judge Goerlich: Go ahead.

Q. (By Mr. Linton) Would you tell us what took place at the Thursday night meeting? A. Yes, sir.

We got together—It was around 20, 25 employees there and we talked about grievances, complaints, and trying to form a committee to go talk to management.

Q. All right, sir.

Judge Goerlich: Was Mr. Patlan present at that meeting?

The Witness: Yes, sir.

Judge Goerlich: Mr. Rolnick, when you write your brief in this case, in the event I find Mr. Patlan is a supervisor, I would like to have you comment upon whether or not his knowledge, for example, that Mr. Sosa [459] was present at the Union meeting is imputed to the employer.

Mr. Rolnick: Your Honor, if you review the record you will see a response to a question I asked Mr. Patlan on that in which he said that no, he did not reveal to any member of management what was——

Judge Goerlich: Yes. I'm aware of that. But I am also aware of some decisions where the Board has apparently imputed knowledge to the employer where the particular supervisor did not tell management.

Mr. Rolnick: Not in this type situation.

Judge Goerlich: Well, that is why I am asking you to comment on it in your brief.

Go ahead.

Q. (By Mr. Linton) Well, tell us what happened there? Do you recall whether anyone spoke? A. Well, Hector Rodriguez spoke and Antonio—I mean Hector Rios and Antonio—

Q. You are pointing to a man at Counsel table here? A. Yes, sir.

Q. Antonio Rios? A. Yes, sir.

Q. And who else did you say? A. Hector Rodriguez.

Q. Did they identify themselves? A. Yes, sir.

[460] Q. Who did they say they were? A. Their names.

Q. Other than their names, did they identify— A. He mentioned some organizer—I think Hector was organizer and he was president of the Union.

Q. You say "he". You pointed to Antonio Rios? A. Yes, sir.

Q. What did they talk about? A. They just gave us advice on how to go about organizing and forming committee for speaking to management and we heard everybody's complaints and that's about it.

Q. All right, sir.

Were there any other meetings? A. Yes, sir. There was one on December the 7th, the following day.

Q. And did you attend that one? A. Yes, sir.

Q. About how many people were there? A. I'd say around 20.

Q. Just in general what took place that evening? A. We elected a committee and we just got together there.

Judge Goerlich: Did you invite any employees to that meeting?

[461] The Witness: Yes, sir.

Judge Goerlich: How many?

The Witness: The same ones I invited before.

Judge Goerlich: And where were you when you invited them?

The Witness: The same place.

Judge Goerlich: Out on the parking lot?

The Witness: Yes, sir.

Judge Goerlich: Were there any supervisors in the vicinity when you were doing this?

The Witness: No, sir.

* * * * *

[474] Q. (By Mr. Linton) On Monday what kind of work were you doing? A. I was repressing.

Q. Tell us about your discharge on that Monday. A. Where do you want me to start?

Q. Well, who notified you that you were going to be discharged? How did it come about? A. Well, Pete came by, you know, and he told me to go to Harpo's office and I went in there. And Harpo told me that Mr. Stubblefield had said that was all for me. And I told him why. I asked him why. And he said, "I don't know."

And then I asked Harpo if I could speak to Mr. Stubblefield and he said, "All right. I'll go call him." And he walked out and I assume he didn't go because he told me Mr. Stubblefield didn't want to talk to me. And I walked out of the office and I saw Mr. Stubblefield by a window, you know, and I called him and I told him if I could speak to him and he said, "Yeah. Come on in."

We went to his office and I asked him personally why I was fired. And he said that he had been observing [475] me all day and he wasn't satisfied with my emphasis on the job so—

* * * * *

[477] Q. (By Mr. Linton) All right.

Mr. Sosa, let me ask you—Back during your days when you were a leg presser would you from time to time be moved off that job to some other work in the plant? A. Yes, sir.

Q. Who would tell you that you needed to be moved? A. Pete Patlan.

Q. What would he say? A. He said that Bill had sent him to tell me to go back to the warehouse and unload trucks or whatever had to be done.

Q. All right. You mentioned Bill. Do you know where Bill was at this time on any of these occasions? A. Yes, sir. Sometimes he was just right in the middle of the plant, you know, and he called Pete over. I'd see Bill point at me and——

Q. You would see who point at you? A. Bill.

Q. You are talking about Bill who? What is his last name? A. Bill McClain.

Q. All right. [478] A. He would point at me and then talk to Patlan, Mr. Pete Patlan, and Pete came over and told me that Bill had said to go back to the warehouse.

* * * * *

[483] Q. Did anyone ever tell you who was your boss there? A. No, sir.

Q. Did anyone ever say that Pete or Pedro Patlan was your boss? A. No, sir.

Q. Going to the Monday that you were discharged, did you see anyone in the plant that you normally did not see? A. I saw Mr. Stubblefield.

Q. Would you tell the Judge what you observed regarding Mr. Stubblefield? A. That Monday it was kind of obvious that he would be out there——

Q. Well, just tell the Judge what you observed. A. I observed him with Mr. Ray and Mr. McClain. There were three of them. They were just observing all the employees and observing them closely. On one or two occasions I saw, I saw them look at Mr. Patlan and they looked at me, too.

Q. How long were they or Mr. Stubblefield there? A. Mostly all day.

[484] Q. In which area was this now? A. It was in, well, in the middle. There was a, the inspectors on this side and leggers and the toppers, buttonholes, and they put the jeans patches or something——

Q. Are you talking about it is all in the finishing department? Is that right? A. Yes, sir.

Q. Had you ever seen anything like this before? A. No, sir.

Q. How often did Mr. Stubblefield come into the plant? A. Only when there is a visitor or—Rarely.

Q. Only when there is a visitor or what? A. Only when there is a visitor or inspectors or—But when he comes out alone, you know, he usually walks to the warehouse and back and that's about it.

Judge Goerlich: What time of day were you discharged, Mr. Sosa?

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[487] **Cross-Examination**

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[509] Q. (By Mr. Rolnick) Mr. Sosa, referring for a moment to Monday, December 10, 1973, the day that you were discharged, you stated, I believe, that you saw Mr. Stubblefield in the plant most of that day. A. Yes.

Q. Is that your testimony? A. Yes.

Q. And you saw him talking with Mr. McClain and Mr. Ray? A. Yes.

Q. Were each of them there most of the day? A. I didn't keep an eye on them, close eye on them, but most of the day I saw them, you know, walking around and——

Q. When did you first see them, sir, that day? A. In the morning.

Q. Your started to work at 7:00. When was the first time you saw them? 8:00, 9:00, 10:00, 11:00, 12:00? [510] A. I don't have approximate time, but they were——

Q. Well, give me your best recollection of the approximate time. A. To my best knowledge, well, I'd say around 7:30 or 8:00. I don't know.

Q. Around 7:30 or 8:00. And how long did they remain there? A. Mostly all day.

Q. Mostly all day? A. Uh-huh.

Q. Until 4:00 o'clock? A. Well, I'd say until 3:00 or—I don't know.

Q. Was Mr. Stubblefield there mostly all day, standing in the plant from 7:30 to 3:00? A. He was just—I'd say in the morning and part of, part of the afternoon.

Q. All right.

Now, was Mr. McClain with him all this time? A. I'm not sure.

Q. Well, when did you first see Mr. McClain that day? A. In the morning.

Q. Approximately what time? A. Same time.

Q. 7:30? A. I'd say—I'd just say in the morning. I don't [511] know what time it was.

Q. 8:00 o'clock? A. Between 8:00 and 9:00, 8:00 and 10:00.

Q. What is the first thing that you did that day? A. Started repressing. I started repressing.

Q. Started repressing? A. Uh-huh.

Q. You went up to your press and there was work there? A. Yes, sir.

Q. It was repress work? A. Yes, sir. There was just four or five boxes, you know, full of pants that had to be repressed.

Q. And you began to repress that work? A. Yes, sir.

Q. Anyone tell you to repress it? A. Pete did.

Q. Pete told you to repress it? A. Yes. Yes.

Q. When did he tell you to repress it? A. In the morning.

Q. Was repressing your usual job? A. No, sir.

Q. Had you done repressing—— A. Before?

Q. ——on Saturday? [512] A. No.

Q. The Saturday just before that. A. No.

Q. What about the Friday just before that, December 7? A. I don't remember.

Judge Goerlich: Were you paid on a piecework rate when you repressed?

The Witness: No, sir. Just straight time.

Q. (By Mr. Rolnick) In other words, do I understand you correctly that when you came in on Monday, the repress work was there at your machine? A. Yes.

Q. And you began doing it? A. It was there. Then I started to get a bundle, you know, start pressing piece rate——

Q. Why did you start to get a bundle? A. That's my job.

Q. Your normal job would not be repress? A. No.

Q. On Saturday had you done repress? A. No.

Q. Had you worked that Saturday? A. I didn't work Saturday.

Q. Had you done repress the Friday before that? A. I don't know. I don't remember.

[513] Q. Well, how did it come about, Mr. Sosa, that you did repress on Monday morning? A. It was a routine. I mean, they were going to start rotating repressing and Monday was my turn.

Q. How did you know it was your turn? A. Well, Pete told me about it. He said I'll start this way and then——

Q. Pete came up to you Monday morning and gave you the repress work? A. After I had started pressing, you know.

Q. Pressing the regular piece-rate work? A. I was going to start pressing, you know, before, before Pete came by and said McClain sent him to put me to repress.

Q. McClain sent him? A. McClain sent Pete.

Q. That's what he told you? A. Uh-huh.

* * * * *

[526] Whereupon,

CARLOS D. JUAREZ, JR.

was called as a witness by and on behalf of the General Counsel and, having been first duly sworn, was examined and testified as follows:

Judge Goerlich: Be seated and give us your full name.

The Witness: Carlos D. Juarez, Jr.

Judge Goerlich: Your address?

The Witness: 1723 North 7th Avenue, Crystal City, [527] Texas.

Judge Goerlich: And your age?

The Witness: 40.

Judge Goerlich: You didn't state your name loud enough for me to hear it.

The Witness: Carlos D. Juarez, Jr.

Judge Goerlich: Very well.

Direct Examination

Q. (By Mr. Linton) Mr. Juarez, did you formerly work for the Salant Corporation at Carrizo Manufacturing? A. Yes, sir.

Q. About how long did you work for that company? A. Oh, about nine weeks.

Q. Do you recall when the last day was? A. It was December the 12th.

Q. What day of the week is that? A. It was on a Wednesday, 1973.

Q. What work did you start off doing there? A. I started as a presser on a pressing machine, leg presser.

Q. Then would you go ahead and tell us what work you did? A. Well, I started as a presser on a leg presser. That was about for a week. And then the next week I was moved to a top presser for half a day. Then I was moved [528] back to leg presser. And then I was moved to counting pants by dozens in order to put them where they make the buttonholes and I stayed there for a day, I think, if I remember. It was for a day. Then I was changed back to a leg presser. Then I was brought to where the oven department is, sorting pants and counting the pants and putting them in different sizes and different boxes.

* * * * *

[530] Q. What work did you proceed to next and how? A. Well, then they brought me back to the leg presser where I stayed for the rest of the second week and I finished my two weeks

right there. And on my third week on a Monday, I was going to go to the presser, leg presser, and then I was told by Mr. Billy McClain that morning before when I was on my presser, right before starting at 7:00 o'clock and he called me, he say, he told me come over here. You are going to help me. So I just followed him and when I followed him, then he gave me a book and he said on this book you are going to get the count of these workers over here, these pressers, and get the record of how many dozens they make. I'm going to show you.

So I followed him and he said at 9:00 o'clock you take this count and at 2:00 o'clock again on this book. And he also had another book where he said that at 11:00 o'clock, I was going to take the count at 11:00 o'clock in that other book and also at a quarter to 4:00. So that is what he told me to do.

So I did that work, you know, at the time he told me and little by little he was giving me a little more work to do.

Q. All right.

How long did you work there in the finishing [531] department doing this new job, this new work? A. Well, from my very start it was four weeks, two weeks on the pressers and how I told you I was changed, and another two weeks when I started helping him.

Q. And then were did you go? A. Sir?

Q. Then where did you go? A. On my fifth week he told me he wanted me to help him on the warehouse department.

Judge Goerlich: On the what?

The Witness: Warehouse department.

Q. (By Mr. Linton) All right. Tell us about that, how you got started over there. A. Well, he brought me to the warehouse department and then he told me to see—He started showing me what had to be done right there in the warehouse, that some boxes were supposed to be moved to some other part of the building, and he started showing me that he had

some men already working there and what they was doing and just trying to show me what he was doing right there in order for me to learn what he was doing in that department.

Q. At the time of your discharge what department were you assigned to? A. To the warehouse department.

Q. So you had worked in the warehouse department then [532] just approximately how long? A. I'd say about five weeks.

Q. O.K., sir. A. At the most.

Q. In the warehouse department, would you tell us particularly, let's say, for the last two or three weeks there, what would you do on a typical day? Would you describe what would be done when you would come in and tell the Judge what would happen, what would happen during the day? A. Well, usually when I came in the morning, most of the time I got together with Mr. McClain, Billy McClain in the mornings and this way we get together in the morning and he always give me some orders and pass it on to the employees. This way I knew what was supposed to be done.

Judge Goerlich: What kind of orders?

The Witness: Sir?

Judge Goerlich: Written orders or oral orders?

The Witness: No. Not written, just oral.

Judge Goerlich: What would be the nature of one of them?

The Witness: Well, like this morning let's put three men over here stacking these boxes and take this other four men stacking pants over there on the shelf. [533] And if we had some orders to be picked up, he said put so and so, he would give me the names, different names of the employees, and put those to get the orders out.

Q. (By Mr. Linton) All right, sir.

From time to time over there during the last few weeks while you were in the warehouse, were there ever occasions when employees would want to take off early? A. There were some occasions when they want to take off before.

Q. How was that handled? A. Well, most of the time they used to tell me, but I never make a decision and let them go unless I give their request to Mr. Billy McClain.

Q. Well, just tell the Judge what you would do when someone came up and said I want to take off early to go do something or whatever. A. Well, if someone was going to take off early, what I did, I just went over there and told Mr. Billy McClain and then Billy McClain would go to them and talk to them and find out why they want to go early. If they had an excuse to go early, well, he's the one that made the decisions.

Q. Would you be present when he would speak to them on these occasions? A. Not at all times, but I was on some of them.

[534] Q. All right.

What about in the warehouse there, how many employees, approximately, worked in the warehouse? A. At that time it was about 24 on what I knew about, what Billy McClain was, what I knew he was in charge. I don't know whether he was in charge of these other employees that Richard Ray had at that time fixing the shelves I don't know how many he had.

Q. All right. Now, other than you say Richard Ray had some people putting in shelving— A. Right, sir.

Q. Now, other than those people—Let's just talk about the other people in the warehouse. A. There was about 14 men and about 10 women.

Q. What did the 10 women do? A. They were inspectors.

Q. And what did the 14 men do? A. Well, there was a different kind of work right there at the time when I started. They had to be moved from one place to another because there

was not established work the same at all times, all day, until about the last two weeks that I was there, seems to me that everything was settled so a certain man be there all day like stacking pants.

Q. All right.

[535] Give examples of what would take place during the day as far as shifting or moving people around, you talked about the first couple of weeks, then mentioned the last couple of weeks that you were there in the warehouse, as far as those 14 men are concerned. A. Well, about the 14 men, well, first have to be changed from one job to another. Whenever they finished one job, then if I knew what Mr. Billy McClain told me what have to be done right there, then I changed them to another job.

In other words, if I wasn't sure about it, that I was doing the right, putting the men in the right position, I would just put them there for awhile until I see Mr. McClain and then Mr. McClain made the decision. I went over there and tell him or call him and tell him that this had been finished and I had put a man over here and I wanted to know if that has to be done right or not and then he decided whether they should stay there or not.

Q. O.K. What about the last couple of weeks that you were there? A. Well, the last couple of weeks there wasn't too much moving of the employees. It was just you give an employee a certain job and he could stay there for a whole day.

[536] Q. At any time while you were in the warehouse during your employment, did anyone else move any people or shift any people around? A. Well, Billy McClain did.

Q. How would you learn about this? A. Well, because sometimes I put a man to work on one place and by the time I come back he wasn't there. He was in another place. And then I went over there and tell him how come you are over here on this job over here and he would say, well, Billy McClain told me to come over here. So sometimes I went and tell Billy

McClain if he was right, he did put him over there, and he said that's right, I put him over there because this has to be done, too, and it has to be done before. But he never told me that before, you know. After that he said well, this has to be done or has to be done right away. He must have changed his mind or something.

Q. About how often would that happen? A. It happened— Well, it happened quite often.

Judge Goerlich: Did you get a raise in pay when you went on that job?

The Witness: Not right after I went to that job.

Judge Goerlich: How long were you on it before you got raised?

The Witness: I don't know. When I got my raise it [537] was about, it was about two weeks before I got out, got discharged.

Judge Goerlich: How much of a raise did you get?

The Witness: 15 cents.

Judge Goerlich: An hour?

The Witness: An hour.

Q. (By Mr. Linton) So at the time of your discharge you were earning what? A. \$1.75 an hour.

Q. Did anyone in the warehouse work on a piece rate? A. Not that I know at that time.

Q. What about the inspectors now? What kind of work did they do? A. They were inspecting small pants for children, children's pants.

Q. Was there much or any movement or shifting of those 14 inspectors—I beg your pardon—10 inspectors? A. Well, there was some moving of some of them.

Q. How was that handled? A. Well, sometimes Mr. McClain said that he wants one or two inspectors to a different place and then I asked him which does he want. He says, well, you pick the one you want, but just send me two, send me one or send me two. And I went over there and chose the one I want.

Q. How would you choose the one that you wanted? [538]
A. Well, I would just go over there and pick one of them. It doesn't make any difference. I just went over there and picked one. And if I picked one one time and I knew that she was going back to the same job again, she was called before, sometimes I did just the same one because I knew that she already knew that job, so I picked the same one.

Q. Were you on salary or did you punch a time clock? A. I usually punched the card just like anybody else, all the employees.

Q. Did you use the same time card rack—— A. Same——

Q. Let me finish my question, then you give the answer.

Did you use the same or different time card or time card rack than other warehouse people? A. It was the same kind of time card, same clock.

Q. Was your lunch break the same or different from the other people in the warehouse? A. It was—I usually stayed half hour—Usually came back half hour before the employees. Sometimes I had to come back half hour. Sometimes they give me an hour. But most of the time was half hour.

Judge Goerlich: Were you paid for that time?

The Witness: Yes, sir.

[539] Q. (By Mr. Linton) Are you talking about lunch time?
A. Lunch time.

Q. Do you know whether there was such a thing as supervisor's meetings there? A. I never did know anything because nobody told me.

Q. So far as you know did you ever attend any supervisor's meetings? A. I never did.

Q. Were new employees ever put into the warehouse? A. At the time I was there some new employees came.

Q. How was that handled? How would you learn about it? A. Well, most of the time I was told by Mr. Billy McClain. Most of the time I was, I was told by Mr. Bill McClain that we was going to get, say, one or two more men and he would tell me where we should put them or where he wants them to be put on. So whenever I get them from Harpo Garcia, he usually tells me "These are the men that Billy McClain ordered." So after introduction and I get them, you know, I just sent them and put them to work wherever Billy McClain told me to put them.

Q. Did you ever know or hear of any warnings given in the warehouse while you were there? A. Warnings?

Q. Yes. Warnings. You know, disciplinary warnings. Was there a warning system of any kind there? [540] A. Not to me.

Q. Well, I don't mean to you, but to employees. Did you or Bill McClain ever give any warnings there? A. Well, he told me—A time I remember that he told me about late employees that were in late, you know, and he told me to tell them why was the reason they were coming in late. That was the first time he learned about it and I did, too.

Q. You said he told you to tell them why they were coming— A. To ask them. To ask them why they came in late.

Q. All right. A. And I usually asked them after that. If I knew that somebody was late, I usually asked them. But it doesn't happen too much after that.

Q. You would ask them and then what? A. Well, I asked them and some of them would say they were already there but they were somewhere in the restroom before they came in and I just told them that don't make a habit of this because they might get, after doing this too much they might get fired. He didn't tell me that but I figured myself that this could happen.

Judge Goerlich: Was there ever an occasion when an employee in the group was not performing his duties [541] properly, was loafing, anything of that character?

The Witness: Well, no, sir. Not at that time.

Judge Goerlich: Go ahead.

Q. (By Mr. Linton) Was there overtime work in the warehouse? And if so, how was that handled? A. Overtime was handled by, well, by orders of Mr. McClain. Whenever we needed to work overtime, he usually tells me or either tells the employees to stay overtime after 4:00 o'clock.

Q. Did you ever have occasion to pick people for overtime that Mr. McClain had not named? A. How was that question?

Q. Did you ever have occasion—Was there ever any time he didn't specify the person to work overtime and you picked out the person? A. Well, if—There was sometimes that he didn't need everybody to stay. So if he just needed about four of them to stay, he usually—Sometimes if he didn't say to them to stay overtime, he tells me to go over there and get four men to stay overtime and I went over there and picked the ones I wanted to stay or either volunteers.

Q. You say the volunteers? A. Volunteers because I know if I pick one, he's going to say, "Well, I've been riding with him in the same car," and this way I figure that I pick the ones that they ride [542] in the same car. If I was going to keep one, I would keep the other one, until I get the men that I was asked for them to stay.

Q. Would the warehouse ever work later than McClain stayed in the plant? A. Yes, sir.

Q. About how long? I mean about what time? A. Well, there was sometimes that I also stayed there after McClain left. There were some times that he left at 5:00 or 6:00 o'clock and I had to stay with a few workers there, a few employees.

Q. Until about what time? A. Oh, say about 8:00. Sometimes I stayed about 9:00.

Judge Goerlich: Were you paid for that time?

The Witness: After 40 hours of work.

Q. (By Mr. Linton) After 40 hours what? A. I was paid for overtime.

Q. You are talking about time and a half? A. Time and a half I was paid after 40 hours.

Q. What was the normal work hour week? A. 8 hours, 40 hour week.

Q. The normal quitting time each day was what? A. From 7:00 to 4:00, one hour lunch.

Q. But there were some times you said you worked as late as 8:00 or 9:00 o'clock? [543] A. Yes, sir.

Q. About how many times is that that Mr. McClain had left, you say around 5:00 o'clock? A. Well, I say he left early sometimes and I had to stay.

Q. About how many times? A. Well, I can't mention exactly times, but it was, I'd say, about four or five times. I don't know. Maybe more.

Q. What would be the nature of the work that the people would be doing there after McClain would leave? A. They were unloading a truck that was—They came there just before 4:00 o'clock and it would have to be unloaded, and also have to be loaded, of garments that came from Mexico in boxes. It

would have to be unloaded before we left the plant. It would have to be unloaded and then loaded back to be ready for the next day in the morning to go back to Mexico.

Judge Goerlich: Any further questions, Mr. Linton?

Mr. Linton: Yes, sir, your Honor.

Q. (By Mr. Linton) Going to the week before you were discharged, Mr. Juarez, did you attend any meeting or meetings of employees after work hours? A. I did.

Q. When was that? [544] A. It was on a Friday, December the 7th, 1973.

Q. Where was that held? A. It was held in this building. I learned it's on Adams Street. I don't know exactly the number. In Carrizo Springs.

Q. Do you know the name of the building? A. Well, now I know it is Texas Migrant Council.

Q. About how long was the meeting? A. Oh, I don't think it lasted more than 30, 40 minutes.

Q. About how many people attended? A. Oh, I'd say about around 23, not exactly, but around 23.

Q. Just in general, what happened or what occurred there? A. Well, at that time when I was there not much was talked about. Mostly because they said that most of them were there the night before and there was nothing much that—They just tried to make a committee, a man out of each department.

Q. You say they tried to? A. They did make. A committee man of each department to find out what the rest of the employees wanted and what was their salary they wanted. And at that time, myself, I didn't speak anything except that I told them a short sentence that I told them just if they thought [545] that I could help them, they could tell me and I could tell Mr. McClain if they needed my help or something. I said I could talk to Mr. McClain about it.

Q. All right.

Did you work the following day? A. I worked the following day.

Q. Did you have any conversations with Mr. McClain concerning any employee meetings? A. The first thing when I met Mr. McClain in the morning—I'm not very sure whether we started together at 7:00 o'clock like we usually did get together in the morning. I think we did that. And after we started working there and we started, we was going to check on some boxes of clothes that were returns, or they were shipments from Mexico to Tennessee. There were two boxes. And we were opening the boxes when somebody came, I don't recall who it was, and told him that they wanted him in the office. That's when he left me alone.

And then after he came back, right away he came over to me and asked me that if I knew nothing about the meetings.

Q. He asked you what? A. That if I knew anything about a meeting that the employees were having. And I told him yes, yesterday I found about that. And he said how come you haven't [546] told me I told him, well, right now it is too early in the morning. I haven't seen you. I haven't even talked to you yet.

He said, "Well, do you know what they want, Carlos? Yeah, I told him, the way I heard——

Judge Goerlich: What was that? I didn't hear that.

The Witness: Sir?

Judge Goerlich: Repeat that last sentence. I didn't hear it.

The Witness: He said that if he knew what they wanted, what the rest of the employees want. And then I said yes, I know. What they want is they are not very satisfied with their wages and they are trying to find out if they can get a better salary.

And he said, well, do you, don't you think that \$1.60 is enough? I told him, "I don't know, Mr. McClain, but I am

not going to talk for the rest of the employees." I told him, "I'm going to talk just for myself." I told him, if I'm getting \$1.75, I still say that I'm not getting enough because you know how things are getting high now. Everything is getting high, food, gasoline. As you know, everything is getting higher. And now like me, even me, I know that I am getting more. I can't support my family this way. Just because my wife is working, that's why I'm supporting my family. Otherwise, [547] I couldn't do it myself because I've got two kids, my wife, and me. I told him you know that. That's not enough money. And I also told him if you can get in my shoes and figure out the way I'm getting \$1.75, you think you can be living at this rate an hour?

He said, "Well, Carlos, I know that's not enough, but you will probably get more later on." So I told him—He said but anyway, don't tell anything to the rest of the employees what to do. I told him I'm not telling anything that they should do. I just went over there to find out what they wanted. He said, well, anyway, you will probably get more later on. I told him O.K. I'm satisfied with that. As long as I know that I'm going to get more later on, I'm O.K. And that's all.

And then he said—I told him because we haven't got no benefits at all. Myself, I can see we've got no vacation pay, no holiday pay, and we are getting the lowest thing we can get. I was talking for myself.

So he said, he said you will get a holidays pay. I told him when. He said after you be three months over here. I told him no, after I be six months over here because I already saw a notice over there on the bulletin board that says six months after I be over here in this plant. He said let's go over there and check.

[548] So we walked over to the lunch room where the bulletin was is. It was at that time over there in the lunch room. And then on the way when we was going over there to the lunch room, he said Carlos, do you ever before make more money

than this? I told him I just got laid off. When I started over here I just got laid off from another job that I started at \$2.42 an hour and I was going to \$3.24 an hour plus vacation pay and holidays pay, insurance pay, and more benefits.

He said, "Where?" I told him at General Tire in Uvalde. He said but you are not working there anymore. I told him no, I got laid off, but I've been in places where I earned more money than this.

He said but most of these people over here, they haven't earned more than \$1.60 an hour. I told him that I don't know. I know nothing about the rest of the people.

So we went over there and checked on the lunch room and we saw that notice over there——

Judge Goerlich: You saw what?

The Witness: We saw the notice where it say that an employee that was over six months was going to get holiday pay for Christmas.

So we walked back and we finally got to do something else. We forgot about that conversation.

[549] Judge Goerlich: Was this conversation in English or in Spanish?

The Witness: It was in English.

Q. (By Mr. Linton) All right, sir.

Let's go on to the following Monday. And I'll ask you if you had occasion to be with Mr. McClain walking through the pressing department at which time you had a conversation in which reference was made to employees? A. Well, that's what I finished saying.

Q. I beg your pardon? A. That's what I finished saying, I guess.

Q. Now, wait a minute. Now, you were just talking about Saturday. Is that right? A. It was on a Saturday.

Q. Well, let's move to Monday and did you have occasion to be walking through the pressing department with Mr. McClain or see Mr. McClain in that area in which you had a conversation with him? A. If I remember, I think I did.

Q. All right. A. I did.

Q. All right. Would you tell us about that? A. This conversation, I remember he was telling me that—Oh, that's right. I remember that he told me that, that everybody seemed to be working less than other days. They [550] were doing less work. Everybody in the pressers, the top press, that for him seems that everybody was working less than usually every day. That's what he told me.

Q. Did he give any specific name? A. He told me about Sosa, too.

Q. What was said? A. He said, "Look at Sosa. He's not working. He's working too slow." That's what he told me.

Judge Goerlich: Did he mention anybody else?

The Witness: No. Just specific, Sosa.

Q. (By Mr. Linton) Did you look at Sosa? A. Yeah. I looked at Sosa?

Q. What did it look like to you? A. Well, at that time he was working.

Q. What was he doing? A. I don't know whether he was repressing, but he was on that presser machine.

Q. O.K. Let's come up to the Wednesday that you were discharged. Would you tell us how you learned about your discharge? A. Well, that day was on Wednesday, December the 12th. It was about 11:30 when I was coming towards the office and I met Harpo Garcia right by the top pressers, between the top pressers and leg pressers, and when I met him he said, "Carlos, they want you at the office." So I said [551] O.K. I just went, followed him, you know, to the office. And in be-

tween the office and the pressers, the top presser machines, I saw a stand, that one over there in the back and also a microphone and a speaker on one side, and I asked him what is going to happen over there? Look at the microphone and the speaker. Are they going to have something to announce or something? He said I don't know.

So it just gave me a surprise. I don't know why. I figure why they want a microphone. Nobody had told me anything about it.

Q. What time of day was this? A. It was about 11:30 in the morning.

Judge Goerlich: In whose office were you?

The Witness: Sir?

Judge Goerlich: In whose office were you?

The Witness: I don't——

Judge Goerlich: Where was the microphone?

The Witness: Just between the office and, the office and the pressing machines.

Q. (By Mr. Linton) It was in the plant area? A. The plant area. Just in between. There is a space. It was the space between the pressing machines and the office and there was a space in between where there was nothing there and there was a speaker, the [552] microphone with a speaker.

So I went and opened the door. Mr. Billy McClain was there. So—I don't know whether it was Harpo Garcia or Billy McClain told me to sit down. So I sat down. Then Mr. Billy McClain said, "Carlos," he said, "I don't know how I'm going to tell you this, but you've been my best friend in this area," he said, "but the only thing is that I have to terminate you from the job because of unsatisfactory work."

And I said, "Unsatisfactory work? How come you haven't told me that before?"

He said I don't know, Carlos. I just have to terminate you for that.

But just for that reason? He said just, that's all I have to tell you, just unsatisfactory work.

I told him, "No. I don't think it is because of that. You could have told me that before. You could have given me a warning. That's because, I think, because I asked for more money or more benefits and that's why they don't want to work here a person like me that is asking for more money. But that is O.K. If that is the way you say it has to be done, that's O.K. But it is not for that."

He said, "I don't have nothing to say, Carlos. That's all." He said, "You got a coat?" I told him it's [553] over there on the inspectors. I told him where it was. He said O.K. Harpo Garcia can go over there and get it, get it for you. And I told him, "Well, I can go over there myself." He said, "No. Harpo Garcia can go over there and get it for you."

So Harpo Garcia went over there and got the jacket for me. And then—There is another door that you can't get into the plant. You've got to go—There is two doors. One to get into the plant where all the people are working and one to get outside. So I had to get out through one door and then I remembered that I didn't punch my card. So I opened the door again. I knocked on the door and I opened it. I mean they told me to come in. I opened the door. And I just opened the door and I told them, "I haven't punched my card." Then Mr. McClain said, "You don't have to worry about your card. Harpo Garcia will punch it for you."

So they didn't let me punch the card. I just went out like an animal through a chute. Don't turn back.

Judge Goerlich: What time of day was this?

The Witness: It was about—After 11:30, say about 20 minutes or a quarter to 12:00.

Q. (By Mr. Linton) Did you and Mr. McClain know each other outside the plant? A. We did know—We knew each other outside the plant.

[554] Q. How was that? A. Well, I went to his house with my family twice and he also was once over there at my house.

Q. Mr. Juarez, I want to go back to that—— A. Sir, besides that I, that I was at his house and he was at my house, there was one time that I took care of his children at my house because he had to go to Mexico for one weekend, you know, one night and I kept his children at my house.

Q. Mr. Juarez, I want to go back to Monday, just before you were fired, where you described a situation in the finishing department there and Mr. McClain made a remark about Jose Sosa. Do you recall anything else that took place or happened over there? A. When was that? On that Monday?

Q. Monday when you—— A. The last Monday that I was there?

Q. Yes. A. I remember that Mr. McClain told me to go and check on the, all the pressers, the employees on the pressers and ask them what's happened they are not working the way they are supposed to be working like on some other days before, seems to him that everybody was working slower than usually. So I went over there, and he also followed me, and I went asking everybody, not everybody [555] exactly because we skipped some of them. But he told me to ask one of them, and then ask him and ask him. And every time I asked them, the answer I got from them was that they were doing the same amount that they were doing before, days before, and some of them even say that we are doing better than the day before.

Q. What about—Did you come to Sosa? A. We went just through to Sosa. We didn't stop with Sosa. I just asked Sosa, "How you coming out, Sosa?" He said I'm repressing at the time. It was on a Monday.

Mr. Linton: I'll pass the witness.

Judge Goerlich: Mr. Rolnick?

Mr. Rolnick: May I have any affidavits Mr. Juarez has given? I'd like a brief recess.

Judge Goerlich: Very well. We'll take a short recess so you can read the affidavits.

(A short recess was taken.)

Judge Goerlich: On the record.

Cross-Examination

Q. (By Mr. Rolnick) Mr. Juarez, I hand you an affidavit consisting of 12 pages and a one-page attachment which purports to be the affidavit of Carlos D. Juarez, Jr. given to Mr. Richard J. Linton, Attorney, NLRB, Region Twenty-Three, on December 20, 1973, and ask you if you can identify it? [556] A. Yes, sir. This is mine.

Q. And is everything in here true? A. It is supposed to be.

Q. Is there anything in here that you would want to change in any way? A. I might remember something else that I haven't put there or that I wasn't asked that can be added. I don't know.

Q. Right. But otherwise what is in here is true? A. That can be true.

Q. Thank you.

Mr. Juarez, when you were hired, it was the beginning of October, wasn't it? A. Yes, sir. October the 2nd.

Q. And you were one of the first people hired for the finishing area, pressing area? A. Not one of the first ones.

Q. In the first group. A. Not in the first group. There was somebody else before that.

Q. How many—Let me ask you this. Was the Company starting up the finishing operation when you were hired? Was that the beginning of it? A. I don't know that, sir, because when I went over there to look for a job, I didn't know for how long that [557] plant was operating already.

Q. Did you later find out how long the finishing department had been going on? A. I never did find out really.

Q. And there was a man by the name of J. W. Freels—
A. J. W.

Q. —there at the time? A. Right.

Q. When you were hired? A. Right, sir.

Q. And he was supervisor Bill McClain's assistant, right?
A. Well, the way I know, he was working there when I got there and the way it looks, it looks like to me that he was a supervisor because he was there already. But I think when I was there introduced, if I remember was Mr. Richard Ray, I got introduced first.

Q. O.K. Now, you say here in your affidavit, if you can read along with me, if you like, "I started at \$1.60 an hour on leg press. The supervisor then was Bill McClain and his assistant was L. W. blank who later went back to Tennessee."
A. Right, sir.

Q. In other words, when you said L. W., is that the same as J. W.? [558] A. That's J. W.

Q. And that is the man that we referred to as J. W. Freels?
A. And I thought it was L. W. I'm sorry.

Q. In any event, he was the assistant, he was Mr. McClain's assistant— A. Right.

Q. —at that time?

O.K. Then Mr. McClain left. Excuse me. Mr. Freels left to go back to Tennessee and Mr. McClain spoke to you about

becoming his assistant. A. Well, not exactly assistant supervisor. The only thing he said that morning when he called me to help me, to help him. He just called me. He went over there and said, "You come over here. You are going to help me." And as far as I know, I was doing—I was thinking I was doing another kind of job that I should take care of because of the way he was telling me, but not exactly that I knew that I was assistant supervisor because I was never told by nobody, even by him, that he was supposed to let me know that I was assistant supervisor. He never did tell me anything. I never knew about that.

Q. You did tell Mr. Linton, didn't you, that you were promoted to assistant supervisor for the department when L. W. left? [559] A. How was that again? I told him—That's right. I told him—In the very beginning of my statement I told him that I was assistant supervisor because on my separation slip when I got it, the day I got my separation slip, it had, it was a surprise for me to see that it say "assistant supervisor" on my termination. But never before that.

Q. Well, it does say—Read with me, if you will, on page one here. Didn't you tell Mr. Linton, "In my third week I was promoted to assistant supervisor for the department when L. W. left. I remained there for two weeks when McClain moved me to the warehouse as assistant supervisor." A. Exactly. I told him that because I knew that from that point until I got my separation I should have been that. And when he asked me about that, I said exactly I was assistant supervisor because that is what I got on my separation slip, but not because they told be because nobody had told me.

Q. O.K. Now, let's go on a little further in the affidavit. "In my second week under Mr. McClain, he told me I was doing a god job and any decisions I made would be O.K." A. On my second week helping him, that's what he told me and from there on he kept telling me because I kept [560]

asking him whether I was doing a good job or not. He always kept telling me that I was doing a good job.

Q. And then reading further from your affidavit, "He," meaning Mr. McClain, "told me I could decide who would need to work overtime or change a person from leg press to some other job in the department in order to balance work."

Is that right? A. That's right. He told me that I could make decisions and balance the work on some kinds of jobs. In other words, if somebody had to stay overtime, that I could decide whether they should stay, but not to make a decision on letting them stay overtime. In that case——

Q. You could decide—— A. Sir?

Q. You could decide whether some person should be shifted to another job within the pressing department—— A. On the pressing department——

Q. ——in order to balance the work. A. In order to balance the work.

Q. And in fact, you did have to change some people and you did recommend to Mr. McClain that some people work overtime. A. I recommended that some department, like on that second week that I was helping him, like on usually the [561] inspectors, I sometimes, I did recommend Mr. Billy McClain that seems to me that the job is getting behind with the inspectors and should say that they can stay overtime and he made the decision whether they stayed or not.

Q. In your statement here—You read along with me, right here, if you will. "I did some of the job changing and I did recommend to McClain that some people work overtime and he said O.K." A. That's right. He said O.K. Like on inspectors, right, sir.

But that means that if he said O.K., it was O.K., then I was going to pass the word to them. Otherwise, if he said it was not O.K., I had to tell them not to work.

Q. O.K. Then you were transferred by Mr. McClain to the warehouse? A. Right.

Q. And was this—Except for the few people that had been working there, was this the start up of the warehouse operation? A. The way it looks to me it was the start up of the warehouse operation.

Q. And you and Mr. McClain were the only production [562] people in charge of the warehouse personnel? A. Well, at that time I must say yes, but Richard Ray was in charge but of the engineering department. I didn't count him on this statement that I gave.

Q. O.K. But certainly you, along with Mr. Ray and Mr. McClain, were in charge of the warehouse personnel.

Mr. Linton: Your Honor, I am going to object again along the lines I've objected earlier pertaining to——

Judge Goerlich: Was the word "charge" used in the affidavit?

Mr. Rolnick: Yes, sir, Your Honor.

Judge Goerlich: Very well. Then you may ask him to explain what he means by the word "charge", and Mr. Linton will be satisfied. That's why he's objecting.

Q. (By Mr. Rolnick) Mr. Juarez, would you read along with me right here? It says, "In my work at the warehouse, I had to learn the work. There were about 14 men and 10 women working in the warehouse. McClain and I were the only production people in charge of the warehouse personnel." A. Yes, sir.

Mr. Linton: Your Honor, I still object.

Judge Goerlich: It is not only the witness's words, but it is your words.

[563] Mr. Linton: Well, I—It is not relevant that I—So what, it's my words? That that's an affidavit taken during an investigation, it makes no difference. All we are concerned about here is what are the facts and I—This is what we are here to decide.

Judge Goerlich: Well, I am assuming that when you made the investigation you were attempting to find out what the facts were, too.

Mr. Linton: Suppose I asked——

Judge Goerlich: Now, maybe you were putting words in the mouth of this witness in the affidavit.

Mr. Linton: Perhaps so. And that would not be——

Judge Goerlich: Because that happens sometimes, I am going to ask the witness what he thought "charge" meant when he used it in his affidavit.

What did you think you meant, Mr. Juarez, when you signed your name to that sentence? You want to read the sentence again so you are sure what you are going to talk about? And you tell us what you meant by using the word "charge" in your affidavit. That's what is concerning us.

The Witness: Well, if I say that I was in charge, like him, two people like, say, Billy McClain and me was in charge, well, I always felt that way because Billy McClain passed the work to me and gave it to the rest of [564] the employees. But I mean, at that time I wasn't consider myself that I was the top man or either to make decisions myself for these employees. I also had to give the request to Mr. McClain first because he was the main person that give the orders to me. In other words, I couldn't take, give any orders without his request.

The only thing that I know I was in charge because, I saw was in charge because at that time I knew—The way I was

developing my job, I should know myself. I wasn't that kind of a man that I was going to say I'm not going to be in charge. But I mean, I say I was in charge because at that time he asked me that and I figured as assistant supervisor when I got my separation slip, well, you say assistant supervisor. That's the way I put it all here.

* * * * *

[566] Q. (By Mr. Rolnick) Mr. Juarez, when you were talking with Mr. McClain during the time that you worked for Carrizo Manufacturing, did you talk with him in English or in Spanish? A. In English.

Q. Now, let's go on a little further. You say that you would remain after Mr. McClain left work and you would stay to see that the work got done. A. Because he usually tells me to stay. That's why.

Q. He would tell you to stay and you would see to it that the employees completed the work and then you would lock up. Is that right? A. Well, he usually, whenever he left, before he tell me what had to be done and whenever we finished we could go.

Q. Now, let's get back to using the words "in charge" again, if I may. Do you understand the word "in charge"? A. Well, I understand the word "in charge", but not exactly the way it say in there that I supposed to be in charge of everything.

Q. When Mr. McClain left the plant on these days when you would be staying over with some employees, was there any person who was in charge as you understand the word?

[567] A. Well, I know there was some other persons there that was in charge of the different departments, but I was just with the group that he left me there. Just with that group. That's all.

Q. Who was in charge of that group—— A. Nobody.

Q. —at that time? A. Nobody.

Q. You were not? A. Well, I stayed there because he told me to stay there in charge of them. I knew that he said stay there and take care of them. That means that I was in charge then. Even if you are not assistant supervisor or helper or leader or pusher, whatever, if he is only an employer, and he tells you you stay over here with this group, then you are going to feel like in charge of that group. That's the way I felt.

Q. Now, did you make decisions on your own as far as shifting personnel to balance the work load? A. Besides that?

Q. Yeah. A. No, sir.

Judge Goerlich: Are you referring now to when he was in the warehouse or when he was in the finishing department?

[568] Mr. Rolnick: On either time.

Judge Goerlich: Very well.

The Witness: On either time?

Q. (By Mr. Rolnick) Yes. A. Besides shifting personnel from one, one job to another?

Q. Right. Would you ever decide who would shift from one job to another in order to balance the work load? A. Besides that? No, sir.

Q. What about—Would you ever try to match the people to the work? A. To match, I did.

Q. In other words, you would know the ability of the person and you would try to find a job that he could do, right? A. Well, I did some changes whenever I was told, you know. I was told that I had different jobs. He said this have to be done and this have to be done. Then if one job wasn't done yet and one was finished already, I could change somebody to a different job.

Q. In other words, that person wouldn't go to the job until you had told him to go? A. And also Billy McClain changed them, too.

Q. Right. As a matter of fact, you got upset because Billy McClain used to come along sometimes and after you [569] had put someone on a job, he would take them away. A. Well, I didn't get upset, but I think that they were also believing that I wasn't in charge of them by that way, by Billy McClain coming over to them instead of coming with me. That way, I guess they felt that I wasn't in charge. And myself, too, I was feeling that I wasn't really in charge of them.

Q. Right. But you did—— A. Unless he left. At that time he left, you know, I feel that I was in charge.

Q. All right. But when he was not around, say if he was over in the pressing area when you were in the warehouse, and it became necessary to move someone to another job, give them a new assignment, you would do that, wouldn't you? A. Well, I'd change them to a job that I figure he can stay busy for awhile there until I see Mr. McClain in case he wasn't there. Sometimes I knew that before because I asked McClain what has to be done next in order that I knew that when that guy finished his job there, to put him in another job.

Q. McClain would only stay about maybe 50 percent of the time in the warehouse area. A. Yes.

Q. And the other 50 percent of his time he would be [570] over in pressing. A. Some other place.

Q. In the morning he would come and he would tell you what jobs needed to be done for that day. A. Most of the days in the morning we got together.

Q. Sometimes he would even tell you to send one of the inspectors to do pressing for Patlan, wouldn't he? A. Yes, sir.

Q. Well, what was Patlan's job at that time? A. Patlan was working over there in the pressing department or finishing department.

Q. In other words, he had the job in the finishing department that you had before you went to the warehouse? A. He was working up there.

Q. And the inspector from the warehouse would be sent by you to go do pressing work for Pete Patlan? A. Well, sometimes it was—I sent a woman, a lady from our department, say, this department, the warehouse department because Billy McClain came over and say, "Carlo, go and send a lady over there to help the inspectors where Mr. Patlan is working." So I went over there and picked one and I say just go over there with Pete Patlan. He needs inspectors. Because usually Mr. McClain, Billy McClain tells me they need an inspector over there and we better take you from here. [571] He gave me the order.

Q. And then you would decide which inspector you were going to send over? A. Right. In some cases. Not in all cases.

Q. O.K. A. Sometimes he tells me which, but in some cases I did decide because he would just tell me go over there and get the one you want.

Q. Now, as far as the 14 men that you had, were they switched around a lot during the day? A. In the first weeks that I started working in the warehouse, they were changed around a lot.

Q. And McClain would tell you what jobs he wanted done? A. In the mornings or during the day.

Q. And then he would leave it up to you to transfer the workers from one job—— A. Not at all times. At some times.

Q. Usually he did, didn't he? A. And as I say, some times. He usually did most of the time help me or either say take one man from one place to another and I went over there to the man

to find out and he said, well, Billy McClain brought me over here, and I'd say, well, it's O.K.

Q. Didn't he usually leave it up to you to balance the [572] workers on the different jobs? A. Not usually.

Q. Well, let's look at page 4. Let's read from the beginning.

"It was the approximately 14 men who were switched around a lot during the day to handle the work. Generally, McClain would tell me what jobs he wanted done and he usually left it up to me to balance the workers on those different jobs." A. O.K. As I say over here—But as I said before, you know, he usually went over there and also tell him. If I wrote that in the statement, I probably wrote a different one on the bottom part of this statement.

Mr. Linton: I think in fairness the next sentence should be read, your Honor.

Mr. Rolnick: Fine. I'll read the next sentence. "However, the last two weeks I was there, the work in the warehouse was settling down to where the same people would handle one job all day. Actually, we were just getting things into a routine. This was not an established warehouse operation of longstanding. The plant's grand opening was not until 12-4-73 so a lot of our work was in setting up."

Is that what follows in the affidavit, Mr. Linton?

Mr. Linton: Yes.

[573] Q. (By Mr. Rolnick) Before Mr. McClain sent you over to the warehouse did he ask you if you thought that you could be the supervisor over the warehouse? A. At one time he told me, on my third week or second week, he brought me to help him. We was—One time in the warehouse, I was over there talking to, I guess it was after my quitting time or something that I went over there to wait for another man that asked me for a ride and I was waiting over there when he asked me if I could take care of the whole warehouse. And I told him, "The

whole warehouse?" He said yes, you can supervise the whole warehouse. But at that time something happened that we didn't finish the conversation and he never did tell me anything more.

Q. But right after that he did transfer you over to the warehouse. A. Not right after. Not exactly right after that day. It was——

Q. Two days? A. No. It was the week, the second, the fourth week, well, it was about, let's see, three or four or five days later.

Q. He transferred you over to the warehouse? A. And he said I'm going to need a helper over here on this side. But he never mentioned that word you are [574] going to be promoted to supervisor. That's one thing I want to get clear with you. That he never mentioned that you are going to be a supervisor. Nobody else did.

Judge Goerlich: Did you know McClain before you went to work at the Company?

The Witness: No. I knew him just right there in the Company.

Judge Goerlich: What?

The Witness: I knew him at the Company.

Judge Goerlich: You didn't know him before you went to work?

The Witness: No, sir.

Judge Goerlich: Very well.

Q. (By Mr. Rolnick) So then the statement in your affidavit on page 1 that says, "In my third week I was promoted to assistant supervisor for the department when L. W. left." That's not correct? A. Yes, sir. It is like I tell you that I wrote that. But I wrote that because on my separation slip that I gave to Mr. Linton, it said that I was assistant supervisor and that's

where I got the word assistant supervisor, but not because I knew that before that day.

Q. Now, when you were transferred to the warehouse, did you have a conversation with Mr. McClain about who [575] should be put over in the pressing area? A. Well, just before that he had some names written there and he said he don't know who to put right there. He said I don't know who to put over here to help me over here in this department. He said I don't know if I should put Pete, I don't know if I should put somebody else, or Luie, some Luie, Luie Pena, I think. I don't know which I should put, he said. But he finally decided himself and he went, I guess he went—I don't know whether he went to Pete. I don't know when he talked to him. But anyway, that's the only thing he told me.

Judge Goerlich: Did you make any recommendation to him as to who should be in that department?

The Witness: Well, at that time, if I said—When he said about Pete, I said, well, if you want to put Pete to help you, I think he is a good man. The way it looked he was working pretty good and recommended he's a good man. But he never told me that he was going to put somebody else, appoint somebody else.

Judge Goerlich: Very well.

Go ahead.

The Witness: He made his own decision.

Q. (By Mr. Rolnick) Now, after Mr. McClain made the decision on who to put in the pressing department when you moved to the warehouse, who did he put over there? [576] A. Who did he put over there?

Q. Yes. A. It was—In my place to help him, it was Pete Patlan.

Q. Did you have any conversation with Pete Patlan about what he would have to do over in the pressing area? A. I had a short conversation of what he was supposed to do because at that time Billy told me to tell Pete Patlan what he was supposed to do. So I went over there and told Pete, start to tell him what to do. But I didn't tell him everything that was supposed to be done or whatever I knew at that time because also Billy McClain needed me at that time to go with him.

Q. What did you tell him? A. I told him about how to, every morning what he is supposed to do to take those gum——

Q. Gum sheets? A. Uh-huh. Take them over there for the record of the employees that were working on the pressers and how to take up the count on two different books and just told him whenever he needs help to find out something else, to ask Mr. Billy McClain or ask me. I could tell him what I knew, just what I knew, you know, I could tell him.

Q. Was this the first time that you had ever worked in a garment plant? [577] A. It was my first time.

Q. And as you went along in your job in the pressing area and then in your job in the warehouse, Mr. McClain was trying to show you what to do. A. He was trying to show me what to do because he knew that I was new on this kind of plant and he always told me that I was doing a pretty good job for being a new man in a garment plant.

Q. Exactly. And when Mr. Patlan would have a problem, then he could likewise go to Mr. McClain and find out how to take care of it, or he could come to you. A. Well, he usually went—I don't know whether he went to Mr. McClain. He probably did most of the time, I guess. And once in awhile he didn't see Mr. McClain around, he would ask me if I knew something about that he didn't know at that time, you know, because he thought, maybe he figured that I knew more. I don't know what. But anyway, he asked me sometimes, but

not everything I knew. Not everything that he asked me I knew. I had to tell him to ask McClain.

Q. Well, for example, when you were moved over to the warehouse you had already learned a little bit at least about how to move the pressing employees around to keep the line balanced, right? A. I knew. Not very much. I don't want to say I knew [578] a lot because I was new, but I mean I knew——

Q. What, if anything, did you say to Mr. Patlan about needing to move people around to keep the lines balanced? A. How was that question?

Q. What did you say to Mr. Patlan about his need to move people around in the pressing area to keep the lines balanced? A. What did I tell him?

Q. Yes. A. Well, I don't think he asked me some of those questions. But what he said sometimes like where can I get a pair of scissors. Well, I just told him go over there in Harpo's office because he has got them over there. Where can I get some of these books? Go over there in Harpo's office.

Q. O.K. But Mr. Juarez, when you were in the pressing area you knew that one of the things that you had to do was move people around to keep the lines balanced. A. It doesn't happen too much, but I knew that. But it never did happen too much.

Q. All right. A. Very rare.

Q. But if the line is not balanced, then of course everything comes to a halt, right? A. If a line is balanced—I mean, if you don't have [579] to move people like the way—We didn't—It was very rare that we moved people, that means that the work was balanced O.K. We had it balanced—I had it or he told me to do it, balance. I had it balanced because I never had to move people from one place to another.

Q. O.K. So when you and Billy—When you were in the pressing area and Billy McClain was the supervisor of that department, it would be up to you or Billy to make sure that the work went smoothly, right? A. In the finishing department?

Q. Right. A. Well, it was—It was—The way I was, I know I had to be looking for something for the employees to do and to balance the work like he told me. That I could do in my second week with him. He said if I could make decision on the balance the work, I could do it. It was O.K. You are doing O.K.

Q. O.K.

Judge Goerlich: You are making money today, aren't you, Glenna?

Q. (By Mr. Rolnick) Now, when you were transferred over to the warehouse and Mr. Pete Patlan was in the finishing area, what did you tell him about moving people, making sure that they had something to do, balancing the work? [590] A. I don't recall at that time. I remember I didn't finish telling him everything because Mr. Billy McClain called me at that time and I had to go and I didn't finish telling anything. The second time I told him that if anything he needs, just to ask Billy McClain if he was closer. But I mean, I never told him what to do because I never had a chance.

Q. Let me ask you this. Would you agree that in the pressing department the most important thing is making sure that people have something to do and that the work is balanced? A. In the pressing department. Also in the warehouse.

Q. O.K. Certainly for pressing though. Isn't that the most, the one most important thing of all? A. Well, according to Mr. Billy McClain, he usually say how much production have to be through in a day to me.

Q. And the only way to get the production through is to keep the lines balanced and keep people things to do, right?

A. That's right.

Q. O.K.

Now, therefore, when you spoke to Mr. Patlan, didn't you say anything about the most important thing that has to be done in that area?

[581] A. Well, I told him the way it have to be done. If I remember, I recall that I told him that sometimes, Billy McClain would tell him how much production had to be gone through. And I told him if—But the way I told him is whenever he needs help or something, to ask Billy McClain and that's what he did, I guess.

Q. Right. Just tell me what you told him though as far as doing the most important part of the job, which was making sure that the production goes through the department and the lines are balanced and people have things to do. What did you tell him? A. Well, that's all I told him, just whatever I told you right now, that so much production had to go through there.

Q. All right. And did you tell him how to go about—
A. And in the mornings take the count and take them to Billy McClain. And I told him to take it to Billy McClain because Billy McClain, at that time, he checks the figure, how much amount they got on that morning or at that time and then he decides whether he makes some changes like he did to me.

Q. Now, did you tell him anything about the need to keep people busy? A. I don't remember.

Q. Or is that such an obvious thing in the pressing [582] department that you would know? A. Well, if I did I probably wouldn't remember because, as I told you, I was always doing something that I actually, I can't say exactly yes or no on that answer because I know that Billy McClain must tell him, too,

not only me because I wasn't fully in charge like I supposed to be.

Q. I understand that. But my point is, Mr. Juarez, Mr. McClain told you to tell Mr. Patlan what you had been doing when you were in the pressing area—— A. Yes, sir.

Q. ——and one of the things that you were doing in the pressing area was keeping the lines balanced and making sure the people had something to do and moving people when they had to be moved. A. Yes, sir. But that never happens too much. The thing you want me to tell you is something that you want me to tell you that is true that I can't say is true because that things that you asked me never happened.

Q. All right. Let me ask you this. When you were in the pressing area did you have to correct the bundle count? A. I had to correct the bundle count, yeah.

Q. Did you have to initial time cards? A. I had to initial time cards on a group of people [583] once and I don't know whether two or three on another occasion. But once I had to do it because the clock was not checking the way it was supposed to be checking. It was checking a different time or a different date because at that time something was wrong with the clock. They were trying to get two ring bells at break time during the morning and the afternoon and they mess up with the clock. And I was told one time—The group was coming out, and usually Mr. Harpo Garcia or Harold Kane or Richard Ray, I saw them checking the time cards, initialing the time cards when they came out and put down the time. And one time I saw all the employees coming out and they were punching out and it wasn't coming out and one of them hollered that the clock—I was going through the office—the clock is not checking right. So I went into the office and I told Billy McClain, I think Richard Ray was there present, too, and I told him the clock is not checking right. And so Mr. Richard Ray got up. He said, "Oh, that clock is not working right."

And then Bill said, "Oh, Carlos can do it. He can check the cards." And I went over there and checked it for that day because I got his permission. And also, I told him that the clock wasn't right. He said, well—He said whenever it wasn't right to just initiate my initials, but not all times because Harpo [584] Garcia, I figured he was in charge of that.

Q. O.K.

Now, when you were in the finishing area did you ever have to tell employees that they should repress? A. In the finishing area?

Q. Right. A. I had to tell them because I was told by Richard McClain, I mean Billy McClain.

Q. Would he—Each and every time he would tell you—
A. Most of the time he did tell me.

Q. —who to pick, or would you know? After you had been there for awhile wouldn't you know that certain work was bad and had to be repressed and you would take it back to the operator and she would do it? A. Well, let me tell you this clear. I could make decisions, if I want, myself, but I mean I always asked him. I'd tell him, "Billy, I think we are getting too much of that repressing piled over there." And he said O.K. Put a person there. He usually—First, he usually tell me who, and then he, one of those times, or two times, he said put the one you want and I went and picked one.

Q. In other words, as a new supervisor when you had a question about what to do, you would bring it to McClain? He was the guy who supposedly knew what to do.

[585] Mr. Linton: Objection, your Honor, to the "as a new supervisor."

Judge Goerlich: I'll sustain the objection to the form of that question.

Q. (By Mr. Rolnick) All right. As a new person in the job that you had, you would take a question to McClain because

he was supposed to know what to do? A. Most of the time I did.

Q. And there were other times that you were aware that you could make the decision on your own? A. Because he wasn't there. I would make the decision because he wasn't there and he told me that I could make the decision. It was O.K.

Q. Right. You didn't have—He had told you that if you wanted to make those decisions, you could. A. But most of the time I figured that he wasn't satisfied with the decisions a lot of time if I made it. I had to ask him. I noticed that just by looking at him.

Q. Do you remember an employee by the name of Pat Rangel? A. Whose that?

Q. Pat Rangel. A. Pat Rangel?

Q. I may not be pronouncing it right. A. Pat Rangel, Patricia Rangel.

[586] Q. O.K. Remember—Is that a man or a woman? A. That's a woman.

Q. Do you remember an occasion on which she had to go out and move her car because they were blacktopping the parking lot? A. Yes, sir. I remember that day.

Q. And remember she brought her gum sheet over to you and you had to write on it the time that she was out? A. I don't remember.

Q. Well—And—She was an inspector, right? A. She was an inspector.

Q. In the finishing area? A. Well, in the finishing area. All I know is the finishing area, but at that time we just call it inspectors.

Q. Call them pressing— A. We didn't have no specific name that I knew.

Q. But she was in the area that you were in before Mr. McClain moved you to the warehouse? A. Right.

Q. I'm going to hand you for identification what I have marked as Respondent's Exhibit 19 which purports to be the gum sheet of Pat Rangel, an inspector, for November 2, 1973, and ask you if you recognize the handwriting on that?

[587] (The document above-referred to was marked Respondent's Exhibit No. 19 for identification.)

A. That's not my writing.

Q. That is not your writing? A. No, sir.

Q. O.K.

Do you recall this employee having to leave to move her car? A. I recall telling everybody that they had to move the cars because they was going to use it for blacktop, the car lot.

Q. All right. Did she also come to you and tell you one day that she was not feeling well? A. That she wasn't feeling well?

Q. Right. A. I think she did.

Q. And did you have to write something on her gum sheet? A. Not on this because at that time we didn't have no record of that kind. They just—I don't know. I never was told that I should keep an accurate record of this papers.

Q. What about changing bundles? Did you ever have to change the number of dozen on a bundle? A. I changed the bundles, but at that time there was [588] nobody that tell me that they had to be very accurate because they was going to get a piecework. All there was I knew is that they were just finding out how much they were making.

Q. Right. At this time that you were in the pressing area it was a new operation and they were starting to try to get done some of the things such as writing on gum sheets but they didn't

do it all the time. Is that right? A. They didn't do it all the time because——

Q. They did it sometimes though, didn't they? A. Well, I guess they did. I never did it, not for records.

Q. Well, they would initial the bundles to show that there was a change? A. Because they are the ones that wanted to know how many dozens they make because they always figure that maybe they were working for piecework. As far as I knew they wasn't working for piecework.

Q. No. Not at that time. A. But they wanted to know how many dozens they want to make. In other words, this would be the record for going out of the cooker, out of the oven.

Q. So you would just initial the bundle to show that it had been changed to the correct amount? [589] A. The correct amount because of the oven over there. If they had to have a count, it was already marked.

Q. What about when there was machine trouble? Did you ever have to indicate that on the gum sheet? A. No. I was never told that.

Q. Did you ever do it? A. If I—If I did, it was just when it was getting closer to where they said they wanted to know, you know, the record of everybody. But they also figured that when they was going to get piecework and if I did it, I must have did it on that time when I was just make them—Well, you know, you want to know how much time you spend over here, you just mark it. But on those, at that time nobody told me it had to be accurate.

Q. All right.

What about the very last week that you were there, say, that Monday, that would be December 10, did you ever get instructions then as to whether or not you should mark machine trouble on a gum sheet? A. No, I never did, sir.

Q. Did you ever do it? A. I don't remember if I did. But that, to me, that wasn't everything that was supposed to be very accurate. If they told me—This is for the help of the people not to be unsatisfied because, the way I was saying, when [590] the people was asking me all the time about when they was going to get a piecework or when they was going to get more an hour, I asked Mr. McClain and Mr. McClain usually told me tell them they are going to get piecework, not too long from now they are going to get piecework, or they are going to get a raise. And in order to keep them that way, I guess Mr. McClain just tell me——

Q. Well, actually, they did put a piece rate system in while you were employed, didn't they? A. Well, it took a long time before it was, before, after they was saying two weeks and two weeks and the people there, everybody was saying that that story was long time ago, the two weeks, in two more weeks they are going to get a—Every new employee, they used to tell him, "Two more weeks you are going to get a raise." In two more weeks, nobody did.

Q. But on November 30 they did have a meeting with the finishing department employees and explained the new piece rate system, didn't they? A. I don't know exactly the date. And all I knew they was having meetings over there and I heard they was about that.

Q. I hand you what I've marked for identification as Respondent's Exhibit 20 which purports to be the gum sheet of Lupe Padilla, a buttonhole operator, for December [591] 10, 1973, and ask you if those are your initials?

(The document above-referred to was marked Respondent's Exhibit No. 20 for identification.)

A. These are mine.

Q. And what does that say, sir? What is written in the red?
A. One and three-quarters, machine trouble. Well, this is after the piecework, isn't it?

Q. That's right. A. O.K. Then I knew at that time it was on piecework. That is why I initiated——

Q. So you knew that it was necessary to initial it? A. Because it was on piecework. Then I knew they was on piecework.

Q. So the people would get paid for the time the machine——
A. That's because I went by, through there and they asked me to, not because I was taking care of that place, or either it was, you know, I was passing through. I usually went through there and everybody would holler at me. Sometimes they would need a mechanic or something and they say, "Hey, Carlos, we need a mechanic over here." I usually went over there and told the mechanic they needed a mechanic over there by the machine.

Q. All right.

[592] Now, as far as you know, none of the mechanics initialed for machine trouble, did they? A. Well, I don't know if they should do it or not.

Q. When you were in the pressing area did you ever have to split a bundle? Say, you would get a bundle of garments that was six dozen and you would have one operator who was running out of work. Would you ever give one operator four dozen and another two dozen? A. I don't recall about that. It probably went on those hand trucks four dozen and three dozen.

Q. Well, who would split the bundles in order to—— A. The guys that were working over there counting the pants.

Q. O.K. What if it came out—Did it ever happen where it came out with six dozen in it and in order to balance the work so that it would flow evenly you had to break up that bundle, that six dozen bundle into something less than that? A. Well, if it had to be that way, then you have to be writing another tag or initial it.

Q. Who had to write it on a tag? A. Well, I figure myself because if I was told to do what I was supposed to do, I had to do it, then.

Q. And you would then write it on the tag so that this would be part of keeping the work going through the [593] department, right, splitting up the work? A. But I don't recall doing that.

Judge Goerlich: Did you ever split a bundle?

The Witness: I don't recall about splitting a bundle, but I recall about putting the dozens that were in the bundle because it was a short bundle, and a lot of times they would say this bundle doesn't have the dozen that it says over here. So I had to put how many dozen were there. I had to count them. Somebody would say look at this bundle, it doesn't have the six dozen. It had five or four, or even if they had more.

Judge Goerlich: All right.

Q. (By Mr. Rolnick) Now, when Harpo would hire new employees for the warehouse he would bring them out to you. Is that right? A. Well, he usually—Well, at first he started bringing them to Billy McClain and sometimes to me, too. And there were some instances that he brought to me.

Q. When he would bring them to you, how would he introduce them? A. Well, these are two men that Billy McClain asked for. So, you know—

Q. What did he say to the two men? A. He said he is going to show you where to go.

Q. Did you ever hear him use the term "mayordomo"? I'm [594] not sure I'm pronouncing it exactly— A. No, sir. I never heard about that.

Q. He never introduced you as— A. He said he is going to tell you what to do.

Judge Goerlich: Well, so this record will be clear, I take it that is a Spanish word?

The Witness: That is a Spanish word for foreman.

Judge Goerlich: What is it supposed to mean?

The Witness: Foreman or supervisor.

Judge Goerlich: Very well.

Go ahead.

Q. (By Mr. Rolnick) And you don't recall him ever introducing people—— A. I don't recall him introducing that way.

Q. But after Harpo would bring the people out to you that McClain had sent out, you would put them to work? A. I would put them to work after McClain told me what they supposed to do.

Q. Do you remember a shipping employee by the name of Roy Martinez? A. Roy Martinez?

Q. Or Roger Martinez? A. I know him, but I never remember shipping—In the shipping department, I knew him.

Q. Yes. Do you remember when he was discharged? [595]
A. Yes, sir.

Q. Were you present? A. I was present. I was present at the time they took him to the office, not present when he was discharged from the office.

Q. All right. Let's go back.

This happened when, about the beginning of November? A. I don't recall exactly the day.

Q. Would you estimate sometime around November 9th?
A. Well, I don't know if I'd estimate right, but I just can't remember that date. You probably got it on the record. I don't know.

Q. I do. But I'm trying to get you to acknowledge that that is about the date.

O.K. What happened that day? A. Well, that day Mr. McClain told me to go over there and get some, get three men from there and put them to doing another job. So I get there and I asked Roy Martinez, "What are you going to do this morning?" He said—I didn't know whether he was supervisor or in charge of the receiving department. I didn't know nothing about that because I was never told what he was and he was never told what I was either. So nobody knew nothing. I not even ask him because I don't know what he was. Nobody told us.

[596] Q. All right. Go ahead. Tell us what happened. A. Nobody was told over there what he was. The way I know, because I never knew what he was.

So I asked him, "I'm going to need three men." He said, "Three men? Which men do you got over here?"

I told him, "Well, I was told by Mr. Billy McClain to come over here and pick three men." He said, "Well, who is over here? Nobody is in charge over here. Are you in charge of somebody?"

I told him I don't know. I just was told. I don't know if I'm in charge. I was told by Billy McClain.

Q. When you came up to him that day and you asked him, told him that you needed three men, didn't he say to you, "Well, who is in charge here?" A. He said, "Who is in charge over here?" But he said—He said—I told him I don't know because I don't know whether I'm in charge or you are in charge. I don't know. We don't know each other from, what we are doing.

Q. O.K. And then McClain came up, right? A. Wait a minute. Let me explain.

Q. Go ahead. A. He said, well, looks to me that not even me or not even you are nothing over here. He said we better find out.

Q. O.K. [597] A. He said because you are not a supervisor and I am not a supervisor. I told him no, I've just been sent

by Billy McClain to come over here and pick three men. He said O.K. There comes Billy McClain.

So Billy McClain come over. He said, "You want him to take three men out of here?" He said yes. Well, he said, "Then who is going to be in charge of what I'm doing?"

Q. Well, didn't he say—— A. He said—Billy McClain said that I was going to be in charge of what he's doing. He said, "Is he going to do this over here?" He said, "Well, he's supposed to do this over here, too." He said, "Well, if he is going to do it, let him do it." And he put the book right there, you know. Then Mr. Billy McClain took it to the office.

Q. Now, Mr. Martinez had been drinking that time, right? A. Well, I cannot say exactly yes or no.

Q. Did he appear to you as if he had been drinking? A. Well, seems to me that he smelled like beer, but I don't know if he was drunk or not. I don't know.

Q. All right.

Mr. McClain said to him that he should come to the office? A. He took him to the office.

[598] Q. And you went with them? A. No, sir.

Q. All right. Did Mr. Martinez come back on the job that day? A. No, sir.

Q. In fact, he was discharged that day? A. I think so because he never came back.

Q. Now, what happened when Mr. McClain came back out to where you were? What did he say to you and what did he say to the men? A. I don't recall exactly what he told me about, but I don't think we talked much about him anymore.

Q. All right. One of the men, when Mr. McClain came back, asked Mr. McClain who is the boss back here. A. At that time?

Q. Yes. On that day. A. I don't remember. I don't remember.

Q. You don't remember? A. No, sir.

Q. Do you remember whether or not on that day, maybe it was the next day, if you remember it that way, that Mr. McClain told the employees back there that you were in charge?
A. He probably told the employees over there.

Q. You were there. [599] A. Well, I don't remember exactly. He probably did, but I don't remember that time. I probably—He probably told them exactly—

Q. Mr. Juarez, after—

Mr. Linton: Objection, your Honor. The witness seemed to be in the middle of an answer.

Judge Goerlich: Had you finished your answer?

The Witness: Well, if he said I was in charge, well, that's the way he figures. I was in charge.

Judge Goerlich: The question is: Did Mr. McClain in your presence ever tell the employees that you were in charge of them? That's the question. Now either answer it yes or no or answer that you don't remember.

The Witness: I don't remember about saying he is going to be in charge of you. He just usually tell them he's going to tell you what to do.

Judge Goerlich: Very well.

Go ahead.

Q. (By Mr. Rolnick) Let me ask you one specific question and see if you understand.

After this thing came up with Mr. Martinez in which he was questioning who was in charge back there, do you remember Mr. McClain going back to the warehouse and telling a group of employees that Carlos Juarez was in charge? [600] A. Well, I can't recall exactly. I cannot say yes or no because I can't recall exactly. He probably did, but I mean I just can't recall it. And

if he did, that's the way he probably thought I was, but he never say it to me. Like I say, I never felt like assistant supervisor.

Q. Do you remember when you were in the pressing area, did you have an employee there by the name of Alex Bustamante? A. Alex Bustamante.

Q. Do you remember right after he was hired? What sort of work was he doing? A. He was a top presser.

Q. Top presser.

When he first began, was he any good? A. He was kind of slow on the job.

Q. Did he have trouble learning the job? A. He had trouble learning his job.

Q. Did anyone speak to him about his work and whether or not he was going to be able to do the job? A. I told him that Mr. Billy McClain told me that he must develop something in order to do more because he might, he might discontinue from the job, lay him off.

Q. In other words, he had to get more production? A. More production. And I passed the word to him.

[601] Q. Now, you passed the word to him and then Harpo Garcia talked to him, didn't he? A. I don't know about that.

Q. Well, do you recall Mr. Bustamante being in Mr. Garcia's office with you being present in which Harpo Garcia had to talk to him? A. Now, let's see. Now——

Q. Isn't that how it happened? A. Alex Bustamante——

Q. Alex Bustamante. A. It was later. It wasn't that day that I told he was supposed to do——

Q. No. It was later on that Harpo Garcia called him to the office—— A. Right.

Q. ——and you were there. A. I was there.

Q. And in fact, they told you to bring him there, didn't they? A. He told me to bring him in.

Q. All right. And then Billy McClain wasn't there, was he? A. No, sir. I was there.

Q. It was the three of you, you, Harpo Garcia, and Alex Bustamante? [602] A. Yes, sir.

Q. And Harpo Garcia told Bustamante that he would have to do better or else the Company was going to have to get rid of him. A. He told him.

Q. After Bustamante was spoken to in the office like that, did his work get better? A. He got better.

Q. Did you mention anything to him that it looked like he was doing a better job? A. No. I just asked him how he was doing and he said I'm doing a lot better, he said.

Q. Now, you testified that you attended a meeting on December 7—— A. Right.

Q. ——of certain employees and that the following morning, December 8, you had a conversation with Mr. McClain. A. Yes, sir.

Q. Now, isn't it true that in the conversation you had with Mr. McClain he never asked you if you had attended the meeting? A. He never did ask me.

Q. All he asked was whether you had heard whether there had been a meeting of employees. [603] A. That's what he asked me.

Judge Goerlich: Did you at any time during that conversation reveal to him that you had been in a meeting?

The Witness: Which conversation, sir?

Judge Goerlich: At any time during that conversation did you reveal to Mr. McClain that you had been at a meeting?

The Witness: No, sir.

Q. (By Mr. Rolnick) And he asked you during that conversation that if you heard anything about the meeting that you should please take it to Mr. Stubblefield? A. Well, he said if I knew something about—If they wanted to talk—If the employees wanted to talk, do some talking about this, to let me know and I take it to Mr. Stubblefield. That I could take it to Stubblefield.

Q. Or you could take it to Stubblefield yourself? A. Myself. And then tell him the problems if I heard more after that day, which I didn't.

Q. Now, after Mr. Patlan was discharged on Monday, December 10, did Mr. McClain say anything to you about whether you would have any responsibility for, or be in charge of the work in the finishing area? A. He said me and you are going to take care of this finishing area and warehouse.

[604] Q. In fact, he told you that tomorrow you and I will be in charge here since Patlan won't be here? A. Right.

Q. So then——

Mr. Linton: What page is that on?

Mr. Rolnick: Page 10.

Q. (By Mr. Patlan) As of Tuesday, December 11, 1973, you, along with Mr. McClain, were in charge of the pressing area. Isn't that what he told you? A. Well, he said that you and me are going to be—Well, I used that term in charge because I figured that I was working with him and he said me and you are going to be taking care of this department, finishing and warehouse department.

Q. Right. And you attempted as best you could to quote Mr. McClain's words. You even put it in quotes in the affidavit. A. On what—You mean by that—Let me see. Let me check.

O.K. That's the way it is.

Q. Right. Isn't this the way it appears in the affidavit? A. That's the way it is.

Q. And in quotes it says, "Tomorrow, you and I will be in charge here since Patlan won't be here." A. Well, that's right.

[605] Q. Now, when you were discharged by Mr. McClain, he told you that your work was unsatisfactory and you tried to get him to explain a little further. A. I tried to explain a little further because—But he never did explain any further. He never did want to explain.

Q. All he would tell you was that your work was unsatisfactory? A. Just—He told me that my work was unsatisfactory and that's all he told me and I tried to get him to explain me why. He never did. He just told me that. In fact, he always told me before that I was doing a good job. Even on the last Monday that I was there, that was two days before I got discharged, he told me that I was doing a real good job. He never gave me a warning about doing a bad job. He could have told me that I was doing a bad job in some cases and I could have figured out what was wrong. He could have told me and I would change it. But he never told me.

Q. When you had the conversation with Mr. McClain about what people were being paid and so on, didn't he tell you that you are working for the Company? A. He told me that I was working for the Company.

Q. And you told him yes, I knew I was working for the Company, but to me it looked as if I was in the same [606] situation as the workers because I didn't receive any paid holidays or insurance benefits either. A. Right, sir. That's right. I wasn't getting any better pay or nothing like that. I was just like any other employee, employee right there; no benefits, punching the clock on the same card, on the same clock.

Q. Now, as far as job classifications in the warehouse, were there inspectors? A. Inspectors in the warehouse?

Q. Yes. A. There were inspectors in the warehouse.

Q. Did you have people who did sorting? A. Sorting.

Q. Did you have a bundle boy? A. In the warehouse?

Q. Yes. A. Not in the warehouse. Well, I never knew whether he belonged to the warehouse or he belonged to the finishing department because he was in between. But they never told me which belongs to one side or the other. I was just learning by myself everything.

Q. Did you have people who might be called pickers? A. Pickers? A. We did have pickers.

Q. Packers? A. Pickers and packers.

[607] Q. Did you have checkers? A. Checkers? I don't know which was checkers.

Q. Checked the orders. Employees who would check the orders. A. Not specific. We just had somebody to pick, I mean to check, to check.

Q. Did you have people that had to put the stock in the bins? A. The stock in the bins.

Q. And then you had other employees who would load and unload trucks? A. Well, we didn't have all the employees for a certain job. We had to pick from the ones that were stacking.

Q. And in the warehouse there were approximately how many people? A. In the warehouse, including Richard Ray and the ones that were in charge?

Q. Don't include Richard Ray and don't include Billy McClain and don't include yourself. Approximately how many others were there? A. How many altogether?

Q. Yeah. A. Well, it was about 14 and 14. 24. I mean 14 and 10 is 24. And I don't know how many Richard Ray had over [608] there making shelves.

Q. How large an area is that warehouse? A. I can't estimate the size of the area. If I was told once, I forget about it.

Q. Can you stand in any one place in the plant and see all the employees who worked in the finishing department and all the employees who worked in the warehouse? A. No, sir. There is always something in front, obstacles, that you can't see at all times.

Judge Goerlich: Can you see—In the warehouse, can you see everybody that is working in the warehouse?

The Witness: No. Because there is some things there in between and some others are working on the other side between some boxes and you can't see them, or in the corner where the benches are, at that time where they were making the benches.

Q. (By Mr. Rolnick) What about the finishing department? Can you stand in any one place in the finishing department and see all those employees? A. In the finishing department? You can stand and see from one side to the other.

Q. There are more employees in the finishing department than the shipping department, right? A. Looked like it was more.

[609] Q. Now, in the job that you were doing in the warehouse, how much of your time was spent doing manual work? You know, working with your hands as opposed to making sure that people were doing what they were supposed to be doing. A. In other words, helping, like helping people and working myself, too?

Q. Yeah. A. Well, most of the time I was working, too. I was moving, helping moving boxes, or I never was standing right there looking at the employees doing just what they were supposed to do. I was working myself.

Q. You were expected to make sure that the other people did the work, right? A. Well, I was seeing that everybody was

working. I never saw them laying off or laying around and I was working myself sometimes.

Q. When you were in the pressing area, the same thing? You were responsible for making sure that those people did their work? A. In the pressing area I usually had something to do because I had to move those boxes in front of the inspectors or had to move the repressing. But I mean, I never stand just right there watching them or sit down and watching them how they were working.

[610] Q. When Mr. McClain was absent, who took care of the work in the warehouse that day? A. I was told by him that he was going to be absent one morning the next day, or even he left one day before early. I don't recall very good that. But he left early one time that he was feeling sick and he said that in case—If I recall, he left everything in order.

Q. Well, Mr. Juarez, was there ever any one day in which Mr. McClain was out for the day? Remember when he had to move into his trailer or something like that? A. I remember one time that he was, most of the day he was off because he said he was going to have—He was supposed to be over there with Mr. Stubblefield in his office and he was going to be most of the day over there in the office and he told me what had to be done and I had to take care of that.

Q. Did he ask you to take care—Did he ask you to take care of the job and see that it got done? A. Another day he didn't show up. He told me that he probably wouldn't show up because he was feeling bad, he was feeling sick. I don't know whether he got a phone call that morning or something but Richard Ray came over and said, "You are going to be a big man today." He said, "You are going to be taking care of everybody over here in this department."

[611] That time I was feeling maybe a big man because I was myself. But I never was told before that I was that kind of a man.

Q. Now, when Mr. McClain was out on those times, did he tell you to take care of the job and see that it got done? A. Well, he ordered me what to do and I should take care of that. But he was there about 11:00 o'clock or so. Anyway, he came in. He was sick at that time.

Q. You said there were other times that you would stay late and see that everything got done and Mr. McClain would not be there. A. Yes, sir. Whatever he leave for us to do, I would see that it was done.

Mr. Rolnick: If I may have just a moment, your Honor.

Judge Goerlich: O.K.

Q. (By Mr. Rolnick) Let's talk for a moment—You testified when you were in the warehouse you had inspectors doing children's pants and Mr. McClain would say to choose one or two of the inspectors to be moved over to somewhere else. A. Move them to the same department, the same warehouse, to do inspecting on another lot number of pants. They had different tables on the other side of the building.

[612] Q. Now going back to the time that you were in the pressing, finishing area, didn't you say the same thing about moving inspectors? A. Moving inspectors?

Q. The need to move inspectors if it came up. A. No. At that time he didn't say anything about inspectors. He just told me about the pressers. The ones that run the pressers, move them from the pressing machine to the, the leg pressers to the top pressers. They could be balanced that way for the amount. If they get too many tops, they had to move over to the leg presser, or take one from the leg presser to repress if we had too many bundles of repress.

Q. Now, when you spoke to Mr. Patlan, what did you say to him about moving toppers to do legger's work and so on? A. When I speak to him about that? Well, I don't remember exactly when I speak to him about that. But if I told him, that's

what I told him, just to, in case he was getting too much over there, to take one of the pressers, leg pressers to the top pressers or take them out. That's all I remember, if I told him.

Q. Just so the record is clear. When Mr. McClain asked you to tell Mr. Patlan what to do in the finishing area, what you did in the finishing area, didn't you [613] tell him that about moving toppers to leggers? A. At that time I didn't tell him. I probably told him later, later days, but not exactly the time Mr. McClain moved me to the other job.

Q. Later on you did tell him? A. If I told him, I told him later on, later days, but not exactly at that time because I didn't have no time to tell him.

Q. Mr. Juarez, just one question. Did you or did you not tell Mr. Patlan about moving people?

Mr. Linton: Objection. Your Honor, now he has asked it three times now. He has already gotten two answers which are the same as the six answers he got about an hour and a half ago when he was asking this series of questions at the beginning of the cross-examination. Now we are back on the same subject. I object to the repetition.

Judge Goerlich: Very well. I'll sustain the objection.

Mr. Rolnick: Your Honor, if you are satisfied that the witness's last answer is that he probably did tell him this and you are prepared to make a finding on that answer, based on that answer, I'll accept it, too. Otherwise, I think the record has got to be clear whether he did or did not. Probably is not going to [614] tell us anything.

Mr. Linton: Well, the witness has indicated at least five or six times during the course of the cross-examination that he doesn't recall saying anything to Patlan about that.

Mr. Rolnick: That is not accurate at all.

Mr. Linton: Well, the record will reflect what he said. If it is not accurate, the record will reflect what the witness did say.

Judge Goerlich: Well, I'll allow the witness to answer the question and then the record now will reflect exactly what his answer is and there won't be any debate about it.

Go ahead and answer the question.

A. Well, it is like I said. I can't recall that because I can't say yes because I might be wrong. I can't say no because I might be wrong. So I just don't recall. Leave it blank.

Judge Goerlich: Very well. That's the best answer you can give?

The Witness: Well, sir, I cannot say exactly if I told him.

Judge Goerlich: Is that the best answer you can give?

The Witness: Yes, sir.

[615] Judge Goerlich: Very well.

Go ahead.

Q. (By Mr. Rolnick) On Monday, December 10, you testified you were walking with Mr. McClain through the pressing department and he said to you, "Look at Sosa. He is working slow." Is that right? A. Right.

Q. What did you say to him? A. I looked at Sosa, you know, and then Mr. McClain just—He said, "Look at Sosa. He is working slowly," but he went by, you know, and I stopped and kept looking. Mr. McClain left.

Q. You testified that——

Judge Goerlich: Excuse me.

Did you look at Sosa?

The Witness: I looked at Sosa.

Judge Goerlich: Was he working slowly?

The Witness: Well, to me he was working.

Judge Goerlich: He was working?

The Witness: He was working.

Q. (By Mr. Rolnick) And yet, you didn't say anything to Mr. McClain? A. No. Because he left some other way and I left the other way. I was going some other place.

Q. You said you walked along—— [616] A. For awhile.

Q. ——for awhile, and that is when he said that? A. Then is when he asked me that and then he turned back, you know, to the one side of the pressers and I went to the other side close to where Sosa was working and I kept looking at Sosa. He went the other way and I kept looking at Sosa. But I never met with Mr. McClain again.

Q. Now, at any time that afternoon did you tell McClain that you had looked at Sosa and he appeared to be working O.K. to you? A. No, sir. I never get in touch with him in that case.

Judge Goerlich Any further questions?

Mr. Rolnick: If I may have a moment, your Honor.

Q. (By Mr. Rolnick) Did you ever attend a meeting between Billy McClain, Richard Ray, Hobart Graves, concerning the overtime and shipments to Mexico? A. Not that I remember, no. No, sir. I never attended any meetings together with them.

Q. You never were in Mr. Graves's office on an afternoon——
A. I went to Mr. Graves's office——

Q. ——in which Mr. McClain and Mr. Ray were talking about the shipments to Mexico? [617] A. If I went to Mr. Graves's office it was because I had something to do besides a meeting. I didn't know nothing about a meeting. I went over there to do something and got out again.

Q. While you were there what was said about working overtime, getting shipments out to Mexico?

Mr. Linton: Object to the form of the question. It is assuming that the witness has indicated he was there or present at such a conversation.

Judge Goerlich: I'll sustain the objection to the form of the question.

Q. (By Mr. Rolnick) Were you there—While you were in Mr. Graves's office did you hear Mr. Ray, Mr. McClain, and Mr. Graves talking about overtime and shipments to Mexico?
A. No, sir.

Q. Did you ever file a claim for unemployment compensation? A. Yes, sir.

Q. And what did you list as your occupation on that claim?
A. I listed my occupation was Carrizo Manufacturing in Carrizo Springs.

Q. What job did you list? A. How's that?

[618] Q. What job did you list? A. I listed assistant supervisor, what I got on my separation slip.

Judge Goerlich: Mr. Linton, will you have any further witnesses?

Mr. Linton: I was going to say no. Depending upon a conversation I may have about a note, I may have one brief, two or three minute testimony from a witness. I'm not sure.

Judge Goerlich: Is that witness available now?

Mr. Linton: Yes, sir. Yes, sir.

Mr. Rolnick: Your Honor, I have no further questions of this witness.

Judge Goerlich: Do you have any further questions of this witness?

Mr. Linton: Only a couple, your Honor.

Judge Goerlich: Very well. You may inquire.

Redirect Examination

Q. (By Mr. Linton) Mr. Juarez, at the beginning of your cross-examination there was a question pertaining to initialing of time card changes and you mentioned the name of Harpo Garcia in connection with that and I don't believe you finished your answer or at least I don't believe you finished the statement as to what relation Harpo Garcia had to, whether he had any or not [619] on initialing of time card changes. What is the information with respect to that? A. Well, he was the one that was supposed to let him know when somebody was absent, supposed to let him know. And also, Billy McClain said to me one time that any time somebody was absent to let Harpo Garcia know. If somebody was absent or even about the clock, he told me to let Harpo Garcia know about that.

Q. Whose initials usually were on time card changes? A. Well, usually Harpo Garcia. Sometimes Richard Ray or Harold Kane.

Q. Harold Kane, the mechanic? A. He's the mechanic.

Q. All right, sir.

Now, you—There was a reference to an employee—There was a reference to your telling employees they would have to move their cars for the blacktopping of the parking lot. How did you learn that the employees would have to move their cars? A. I was told. I don't know—I don't recall—It must have been Mr.—I know it was some supervisor that told me that. Oh, I think it was Harpo Garcia. I remember now. Harpo Garcia was the one that told me to tell the employees that they had to move the cars from the parking, from in front of the parking lot to the [620] front of the plant, to move them back to the other side of the parking lot.

* * * * *

[644]

RICHARD RAY

was recalled as a witness by and on behalf of the Respondent and, having been previously sworn, was examined and testified further as follows:

* * * * *

Direct Examination

* * * * *

[646] Q. Mr. Ray, at my request and as an engineer did you attempt to put together the square footage of the areas of the Carrizo Springs plant? A. Yes, sir.

Q. Would you tell me what is the approximate square footage of the finishing area? A. Finishing would be just roughly 20,000 square feet.

Q. And what is the rough estimate of the square footage of the warehouse area? A. About 70,000.

Q. Is Mr. McClain responsible for both of these areas? A. Yes, sir.

Q. And that totals roughly how many square feet? A. About 90. About—Well, two-thirds of the plant.

* * * * *

[655]

PROCEEDINGS

9:00 a.m.

Judge Goerlich: On the record.

Mr. Rolnick: I call Mr. Perry Stubblefield.

Whereupon,

PERRY STUBBLEFIELD

was recalled as a witness by and on behalf of the Respondent and, having previously been sworn, was examined and testified further as follows:

Judge Goerlich: Be seated.

Are you the same Mr. Stubblefield that testified heretofore in this proceeding?

The Witness: Yes, sir.

Judge Goerlich: I caution you that you are still under oath. Do you understand that, sir?

The Witness: Yes.

Judge Goerlich: You may proceed.

Direct Examination

Q. (By Mr. Rolnick) Mr. Stubblefield, would you describe for us the corporate structure of Salant Corporation and the relationship of Carrizo Manufacturing Company within the corporate structure? A. Well, the corporate structure is that Salant Corporation is the parent company. It's subsidiaries are Thompson Company, Chester Manufacturing Company, [656] Summerville Manufacturing Company, Salant & Salant, Fearless Buckeye Company.

Q. Are each of these wholly owned subsidiaries of Salant Corporation? A. Yes, sir, they are. The Chester Manufacturing Company owns the Carrizo Manufacturing Company. So

therefore, Carrizo Manufacturing Company is a division of Chester Manufacturing Company which is a subsidiary of Salant Corporation.

Q. Now, you were asked questions by Mr. Linton about a plant within the Salant Corporation chain at Trumann, Arkansas. What subsidiary is that? A. That is the Salant & Salant Corporation which is a subsidiary of Salant Corporation also.

Q. Is there also a plant in Lexington, Tennessee? A. Yes, sir. That is a Salant & Salant plant.

Q. Do those plants, aside from being owned, being part of Salant Corporation, have any relationship to Chester Manufacturing or Carrizo Manufacturing? A. No, sir.

Q. Are you aware of any corporate policy of Salant Corporation with regard to labor relations and the unionization of its facilities? A. Our policy is to negotiate in good faith with the——

Mr. Linton: May I object, your Honor? A foundation [657] would be set up by the question, but the answer of the witness is not responsive to that and doesn't show his personal knowledge or opportunity to know corporate policy.

Judge Goerlich: He is the local manager, isn't he?

Mr. Linton: Yes, sir.

Judge Goerlich: Well, I assume that local managers would know what the corporate policy is. If he didn't, he would be a mighty poor manager.

Go ahead.

Q. (By Mr. Rolnick) Continue with your answer, Mr. Stubblefield. A. The policy, the Company policy is that we negotiate in good faith with organized labor in the locations where they represent the people. And, of course, also our policy is that where they do not represent the people that we use legal means to combat them in those plants that are not organized.

Q. In fact, does Salant Corporation have——

Judge Goerlich: What do you mean "combat them"? I don't quite understand what you mean by that.

The Witness: Oppose them.

Judge Goerlich: Oppose union organization?

The Witness: Yes, sir.

Judge Goerlich: In other words, you use whatever [558] legal means are at hand to oppose union organization in those plants?

The Witness: Yes, sir. In the non-union plants.

Judge Goerlich: Very well.

Q. (By Mr. Rolnick) Are you aware on your own personal knowledge whether or not Salant Corporation or various plants of Salant Corporation have collective bargaining agreements with unions? A. Yes, sir, I do.

Q. In fact, have you ever personally been involved in a plant which had a collective bargaining agreement with a labor union? A. Yes. In Lawrenceburg, Tennessee.

Q. What was that plant, sir? A. Salant & Salant.

Q. Do you have collective bargaining agreements covering your Mexican facilities? A. Yes, sir. All three of our Mexican operations have collective bargaining agreements with a union.

Judge Goerlich: As I understand it, you are the manager of the three Mexican operations, too?

The Witness: Yes, sir. That's correct.

* * * * *

[659] Q. Have you ever been the manager of a non-union plant? A. Yes, sir, I have.

Q. From time to time have you ever had employee dissatisfaction in a non-union plant? A. Yes, I have. I think you will

have some employee dissatisfaction in a plant, union or non-union.

Q. Has the employee dissatisfaction ever taken the form of a petition or a committee seeking to talk to management? A. Yes. On numerous occasions we have been petitioned or approached with various problems of different natures. [660] The piece rate, wage rates, working conditions, various things like this. We always make some—we always discuss it with those people, try to work out the problems.

I remember one instance where we had a complaint about the piece rate and we requested that an engineer come into the plant and restudy the operation to verify the fact that the rates were either adequate or inadequate and then we went over in detail with the employees on that particular operation to show them what was possible on the job.

Q. To your personal knowledge does Salant Corporation have any corporate policy with regard to the handling of such matters? A. The Company policy throughout is to have more or less an open door attitude to the employees that work for us, that we will discuss their problems with them regardless of what they might be.

Q. Mr. Stubblefield, I believe you were asked by Mr. Linton about a speech that you gave to employees on December 12, 1973. Would you tell us of the events leading up to the giving of that speech beginning, if you would, with the previous week?

A. The events that led up to the speech actually started the week before when Mr. Lipshie and various [661] other officials of the Company, our Company and another company, was present for an opening celebration or dedication for the building of the manufacturing plant in Carrizo Springs, Texas.

Q. What were those days or dates? A. December 3, 4, and 5.

Q. Continue, sir. A. During Mr. Lipshie's visit to us, he and the other people were favorably impressed with the progress that

had been made there in the Carrizo Springs location. They expressed their appreciation to all. They particularly noted the fact that we had, we had just started, were in a start up portion of our building there. We had started a pressing room or finishing department the first of October and obviously, it was well underway, and the shipping department we started in the early part of November, actually the first week in November. We had just installed piece rates for the finishing department the week before the opening celebration.

And during our conversations while he was here, Mr. Lipshie informed me that he felt that it was now time that we moved ahead with our program of wage rates, benefits, and this sort of thing, and advised me that he would discuss this with the other officials of the [662] Company who had their, fell within their jurisdiction and that he would be back in touch with me the following week to advise me what these changes should be.

Q. As a result of your—As a result of the events that transpired and were called to your attention on December 8, 1973, did you have any occasion to talk to Mr. Lipshie or corporate officials the week of December 10, 1973? A. Yes. As a matter of fact, I called Mr. Lipshie December 10, which was Monday, and I reminded him of the conversation we had had the previous week and I said, "Look, Joe, we've got a Company policy that we try to avoid dissatisfied employees and if it has reached the point where employees are holding meetings to discuss their being dissatisfied, could you speed up your results of your meeting you are going to have with Mr. Bullwinkel and Mr. Morris and other people and let's hurry this thing up a little because there is no point in putting it off inasmuch as we are going to do it anyway."

Q. Did Mr. Lipshie in fact get back to you that week? A. Yes, he did.

Q. When? A. Wednesday, the 12th. I believe it was the 12th.

Q. As a result of Mr. Lipshie's getting back to you, what, if anything, did you do? [663] A. I prepared a speech or an address or whatever, I'm not much of a speaker, but a thing to notify the people in the plant and tell them that we were in fact going to install these new wages, put the benefits into effect, starting December, I believe it was the 16th. The benefits would go into effect January 1.

Judge Goerlich: Mr. Stubblefield, I note in the complaint that Mr. Lipshie is designated as president. Is he—What is he president of?

The Witness: Well, at the time, Mr. Lipshie was president of the Salant Corporation. Pardon me. He now is the chairman of the board of Salant Corporation.

Judge Goerlich: Well, now, was Carrizo Manufacturing Company, did it have a president also, or was he president of that, too?

The Witness: No, sir. No, sir. We don't have a president of that division.

Judge Goerlich: Very well. Thank you.

Q. (By Mr. Rolnick) Mr. Stubblefield, I hand you what has been received in evidence as General Counsel's Exhibit 7 which purports to be a speech given on December 12, 1973, and ask you if you can identify it? A. Yes, sir. This is a copy of it.

Q. Is that the speech that you gave on that date, sir? A. Yes, sir, it is.

[664] Q. Now, when Mr. Linton was asking you questions he referred you to the last page on which it has some remarks about a union. Would you tell us why that is in your speech and discuss your speech in general? A. Well, I think to get the point, you need to read the entire speech. To look at the last page would tend to take the idea that I was trying to convey to the people out of context because on the preceding page I

had gone into, not at length, but I had talked about the fact that if people work together, Company and employees, or management, employees, or whatever, if they each one work together, then we would have a more favorable condition exist in the plant. This holds true in any place where you have people working together.

Judge Goerlich: Did you clear that speech with Mr. Lipshie?

The Witness: Mr. Lipshie gave me the parts about the wages and the benefits, these parts of the speech.

Judge Goerlich: Very well.

Q. (By Mr. Rolnick) What, if anything, was the purpose of the last page? A. Of the last page? This is something I just—I do this at any location where organized labor is not represented. I've given this, maybe not word for word or verbatim like this, but in essence I have told people [665] this on many occasions.

Q. In fact, to your knowledge has the Salant Corporation had a plant that has been organized by a labor union in the United States since 1966? A. 1966 was the last one.

Q. Mr. Stubblefield, would you explain for us the supervisory structure of the Carrizo Springs plant? A. Well, starting with myself, I'm supposed to be manager of that plant as well as the others, general manager of all four of these plants in this area. And we have Billy McClain who is supervisor over the finishing and shipping department and Joe Houston who is over the cutting department.

Working for them then are the line, what we call maybe a line supervisor or floor supervisor or whatever terminology a person wants to use. We have one in the cutting department working for Joe Houston and then Billy had two in his department, one over finishing and one over shipping.

Q. Who were they, sir? A. They were Pedro Patlan over finishing and Carlos Juarez, Jr. over the shipping department.

Q. Now, there has been some testimony brought out by Mr. Linton that Mr. McClain and other supervisors are on a salary basis and Mr. Juarez and Mr. Patlan were on an [666] hourly basis. Does the Company in fact have any hourly paid supervisors? A. No, sir. Not in that particularly category. Those supervisors are all hourly paid people who what we call punch a clock or record their time on a time clock and the department heads, such as Billy McClain and Houston, are salaried people.

Q. Do you have someone under Mr. Joe Houston? A. Yes, we do. Jesus Valdez.

Q. How is he paid, sir? A. Hourly. Hourly. He punches a clock.

Q. What function does Mr. Richard Ray have? A. He is engineer for these four plants in this area.

Q. How about Mr. Hobart Graves? A. Hobart is office manager.

Q. Mr. Harpo Garcia? A. Personnel director or manager.

Q. What supervisory status, if any, does Mr. Harold Kane have? A. Mr. Kane is what we call head mechanic. The only people he supervises are his helper and the janitors or watchmen in the plant.

Q. Is he in fact a supervisor or regarded as such by the Company? A. No, sir.

[667] Judge Goerlich: Kane is not a supervisor?

The Witness: Sir?

Judge Goerlich: You say Kane is not considered a supervisor?

The Witness: Not really. No, sir.

Q. (By Mr. Rolnick) Approximately how many employees were supervised by Mr. McClain as of December 10, 1973? And

then break that down, if you would. A. He had about 40 to 50 people in the finishing room and he had 30 or more, I guess, somewhere a little over 30 people in the shipping area.

Q. Did you have any conversations with Mr. McClain concerning the job duties and responsibilities of Mr. Carlos Juarez?

A. Yes. In fact, I discussed with each one of the department heads in the plants that I try to oversee the functions of all of the people in the supervisory category to ascertain whether they are actually performing these functions and if they are being, when it is a case of a new individual, whether they are receiving instructions properly on what they are to do and what they are not to do. I am especially interested in how a person in supervision handles the people under them. In other words, what kind of treatment the people receive from their supervisor.

[668] Q. Did you have any conversations with Mr. McClain concerning the responsibilities and authorities of Mr. Pedro Patlan? A. Yes, sir.

Q. Would you describe for us the responsibilities and authorities of the finishing assistant supervisor? A. A supervisor's responsibilities and functions are many.

Judge Goerlich: Well, now, I think it would be of more value, Mr. Rolnick, if you would ask the witness to relate what he told Mr. McClain the responsibilities of this individual would be rather than just give us a general description of what he thinks supervisors ought to do.

Mr. Rolnick: No. I don't mean that, sir. I understand that he had a conversation with Mr. McClain.

Q. (By Mr. Rolnick) Mr. Stubblefield, are you also aware on your own personal knowledge of what was going on in the plant? A. Yes, sir.

Q. As a result of your conversation with Mr. McClain and your own personal knowledge of what was going on in the plant, would you describe for us the supervisory duties and re-

sponsibilities of the assistant supervisor in the finishing department? [669] A. His responsibilities would be to assign the work to balance the work load between operations, to check quality coming off of the various operations, keep certain records of production, even earnings after the piece rates were established. He has the authority to approve or disapprove, whichever the case might be, the off standard time that an operator might have when their job assignment is a piecework job and they have to be moved from this job for any reason.

Q. Who determines if an operator is to be moved from one job to another? A. The supervisor will normally determine this because it is his responsibility to move a given amount of work through the operation and through the department. So it has to remain his prerogative to be able to move people to accomplish it.

Q. When you say the supervisor, to whom are you referring? A. To the line supervisor, or Mr. Patlan or Mr. Juarez in this case.

Q. Did they have the authority to transfer employees from one job assignment to another? A. Yes.

Q. What authority, if any, did they have with respect to the granting of time off or overtime? [670] A. Well, there again, on time off, if they had an individual who had requested time off and they could see their way clear to allow this person to be off, it was within their jurisdiction to be able to grant that person time off.

Judge Goerlich: Mr.—Go ahead. Excuse me.

A. On overtime, if they saw at 2:30 or 3:00 o'clock in the afternoon that they needed in fact to work one or more people on this job to accomplish the number of dozens they were supposed to produce for that day or to supply work for the next operation the following day, then they had the right to tell those people to work.

Judge Goerlich: Mr. Stubblefield, did you as manager ever personally transmit the extent of authority that each one of these individuals were supposed to exercise? That is, the assistant supervisors. Did you ever talk with them about it?

The Witness: To them about these points? No, sir, I didn't. Only to their supervisors.

Judge Goerlich: Very well.

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[673] Q. (By Mr. Rolnick) When Mr. McClain was not in the finishing area, who was in charge of the finishing area? A. Supervisors immediately under him.

Q. Who was that, sir? A. Pedro Patlan and Carlos Juarez, Jr.

Judge Goerlich: Let me ask you one further question about these two assistant supervisors. Did you have any written document or instrument that indicated the extent of their authority?

The Witness: No, sir, we don't.

Judge Goerlich: Very well.

Q. (By Mr. Rolnick) What about in the warehouse when Mr. McClain was absent or not in the area? A. Carlos Juarez.

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[676] Judge Goerlich: One further question. How much of your time do you ordinarily spend at the plant in Carrizo Springs?

The Witness: Maybe about a fourth of the time overall.

* * * * *

[677] Q. (By Mr. Rolnick) I believe the question I asked you, Mr. Stubblefield, was who was responsible for seeing to it that the production was attained in the finishing department? A. Well, the first responsibility would be that of Pedro Patlan.

Q. Then who has the main responsibility? A. Then Billy

McClain would be responsible next in line and then I would be responsible next in line.

Q. Do you know whether or not Mr. Patlan was assigned [678] any manual work? A. Well, I don't know that he was—I couldn't say definitely that yes or no, that he was ever assigned. I would say this. Billy McClain knows that a supervisor doesn't work, so to speak, as a manual laborer. He is there for one thing and one thing only and that is to supervise.

Q. Well, you were here when Mr. Patlan testified that he spent the greatest percentage of his time bringing bundles to operators. Was that part of his job duties as assistant supervisor? A. No. The responsibility of moving bundles in that particular area rests on the operators themselves. It is laid out and so designed that once the bundle is placed upon the cart, that it progresses through the department on, it is on wheels and it moves from one operation to the other in succession and there is no need for anyone to be moving bundles about.

Judge Goerlich: Well, now, so I'll understand how this plant operates. The raw material, so to speak, comes from Mexico. Is that right?

The Witness: Yes, sir. That's correct.

Judge Goerlich: What is that?

The Witness: It is a pant, a work pant——

Judge Goerlich: It's already——

[679] The Witness: Sewn. All it needs is two buttonholes and to be top pressed, leg pressed, and inspected and put through the oven on a conveyor chain to cure the permanent press resin in the fabric.

Judge Goerlich: Is that the manner in which it proceeds?

The Witness: Yes, sir.

Judge Goerlich: Then it is shipped to the customer?

The Witness: Right. It is put into—We have a large area of storage shelves or bins they are put in by lot number which designates color.

Judge Goerlich: This is what is done by the finishing and shipping department?

The Witness: Yes, sir.

Judge Goerlich: Now, the cutting department is some other operation, I take it?

The Witness: They cut the parts and package them up or case them up to ship to Mexico by truck for the sewing operation.

Judge Goerlich: Very well. In other words, they are cut, shipped to Mexico, sewn together, and then brought back here and finished as you described it?

The Witness: Yes, sir. That's correct.

Judge Goerlich: Go ahead, Mr. Rolnick. Thank you.

[680] Q. (By Mr. Rolnick) As far as moving bundles, what, if anything, is involved in the piece rate, or is there any relationship between the piece rate and the movement of bundles by operators? A. The piece rate on each individual job includes the operator moving from her work station or machine to an aisle area, obtaining the bundle, bring it to her machine, and upon completion of this bundle, moving it away from her work station back out into the storage aisle for the next operation.

Q. Did you attend the November 30 piece rate meetings?

A. Yes, sir.

Q. Was anything said about this? A. Mr. Hughes explained this in detail. And let me—If I might, I would like to spend a little of our precious time on this.

Judge Goerlich: Let me ask you one question before you start on Mr. Hughes. Did he speak in Spanish or in English?

The Witness: English.

Judge Goerlich: Go ahead.

The Witness: Mr. Hughes is one of the most experienced and qualified engineers that we have in our organization and he has installed rates in probably every factory that we have. And Mr. Hughes was well [681] aware of the fact, of course, that this was a start up operation and he was in fact addressing people who were not familiar with piece rate, a piece rate structure or possibly even a wage incentive plan. So I felt that he did a very thorough job in explaining to these operators the actual structure as well as what each and every step contained in it and what was expected of them and how they were paid and the whole package. I fail to see how anyone could misinterpret or misunderstand.

And he also many times in these talks he asked the people is there anything you don't understand, are there any questions, and he goes over this several times because it is very important, as he well knows, that the people do understand and they have a knowledge of how the rates are established, what it takes to make the production rate, and what the responsibility of the person who is doing the job must be.

Q. (By Mr. Rolnick) Did Mr. Hughes make any specific reference to whether or not the getting the bundles by the operator was incorporated? A. Yes, he did.

Q. Are you aware of whether or not Mr. Pedro Patlan attended these meetings? A. He attended all of them.

Judge Goerlich: I think he admitted that, didn't [682] he, Mr. Rolnick?

Mr. Rolnick: I wanted to get the foundation for the next question, your Honor.

Q. (By Mr. Rolnick) As a result of attending these meetings, what, if anything, was indicated to Mr. Patlan about his responsibility for bringing bundles to operators? A. Well, I expect he could obtain from those meetings that it was the responsibility of the operators, that they were in fact being paid for their work rate.

Q. Was Mr. Patlan responsible for bringing staples to inspectors as part of his job as assistant supervisor? A. I wouldn't say that it was part of his job, but this is a pretty common practice for people in supervision to do. I see nothing unusual about it, the fact that he would go get staples for an operator when she needed staples. Fact of business, I went and got a cone of thread for an operator the other day and I don't think you could call that my job. I was doing it more or less as an accommodation, an expedient measure to assist the lady.

Q. Mr. Stubblefield, you also heard Mr. Patlan testify that most of his time was otherwise taken up with taking a production count. How much of his time does it take to take production count? [683] A. Well, if you walked real slow and did a lot of talking at the same time, you probably might spend 30 minutes taking the production up in that finishing department here in Carrizo Springs.

Q. What, if any, responsibility does the assistant supervisor of the finishing department have for checking quality? A. This is one of his responsibilities is to check the quality from each of his operators daily, at least daily, and to ascertain whether the quality of the work coming from that operator is sufficient and adequate.

Q. Who makes the decision on whether the pants should be pressed or repressed, repaired or repressed? A. That depends on the location that the question arises really. We have inspectors that work at the end of the line before—When I say the end of the line, I mean between the leggers and the oven where they are cured. And if you are going to catch a pressing mistake it must be before it goes through the oven and sets the crease in

the garment. But at this stage the inspectors looks at the garment and she determines whether it is properly pressed or not.

But if a supervisor checks his work behind the operators or as the operators are doing it—In other words, the operator is standing at the press and she is [684] pressing a pair of pants and lays them over here on the rack. He should periodically look at the pants that this operator is laying away on the rack and if he finds pants in there that are improperly pressed, he takes it out of the bundle, he hands it back to the operator and tells that operator what is wrong with it and what to do to correct the mistake. And at that stage it is his responsibility to determine whether this should be pressed or not.

Q. Were there ever occasions in which a supervisor would have to tell employees to stop doing one color of pants in order to let another lot come through? A. This happens quite often.

Q. What is the reason for that, sir, and how does it come about? A. Well, it could be any number of reasons, but one of the most prevalent reasons is that this lot or this color we need immediately to ship to the customer and satisfied customers creates jobs for all of us and so we stop the blue ones that are going through and we do the gray ones that we need immediately for shipment.

Q. How does it come about—How are the orders transmitted to stop one and do the next? A. Well——

Mr. Linton: Your Honor, I believe the last two or [685] three questions now have been how is something actually done and it hasn't been shown that the witness was there on these occasions to observe this or whether he is testifying from generally what his concept is that the duties should have been. I object on the basis of no foundation of personal knowledge.

Mr. Rolnick: Your Honor, this gentleman is the manager of the facility and he has testified that the events he is testifying today are the results of his personal knowledge of the facility.

Judge Goerlich: You may continue.

The Witness: Would you repeat the question, please?

Q. (By Mr. Rolnick) I'm not sure I remember it.

I think the question was how it comes about that this change is made, who has the authority to do it, and what instructions are given? A. Well, we can receive the knowledge that this needs to be done from various sources. I have received telephone calls from New York telling me, look, we've got to have lot so and so ready to ship tomorrow.

Q. As a result of your getting the instruction of what lot to do, what is the next step in the process? A. The next step in the process in that particular plant, I tell Billy McClain lot such and such number has to be shipped tomorrow or next Monday or next week or [686] whatever and then he takes it from there.

Q. What does he do? A. Then he would go to his supervisors and say, look, fellows, we've got to get lot so and so ready to ship tomorrow.

Q. What does the assistant supervisor do then? A. Then the assistant supervisor would go to the operators on the various operations and say, look, folks, we've got to get lot so and so ready for tomorrow. Change over to this lot.

Judge Goerlich: Off the record.

(Discussion off the record.)

Judge Goerlich: On the record.

Q. (By Mr. Rolnick) Who decides if employees have to be transferred to sorting? A. Well, the person they work for, which would be their supervisor.

Q. Which would be who, sir? A. In the finishing department it would have been Patlan.

Q. Mr. Stubblefield, there has been reference during this hearing to certain exhibits known as gum sheets. Would you explain

to the Court the importance of gum sheets in the operation of Carrizo Springs plant? A. Well, after piece rates were installed, they became [687] the only working document really that you have to document the performance of the operator on a piece-work job. You have the number of dozens that person produces during the hours they were on the job. You have a record there of the time they spent doing some other job other than their regular job or piecework job. And this is the basis that we use to compute that operator's pay plus the fact that we use that same document to keep various other records.

Q. Before the piece rates were established what importance did the gum sheets have? A. Well, basically, they merely show the number of dozens that an operator did do during the time they were on the job. However, I encouraged the foremen, which was Mr. McClain over the finishing departments, that they start using these gum sheets and keeping these records as accurate as they could more or less as a training thing for the operators and the supervisors to get them aware of the fact of their importance before the day we say, "Well, we put the piece rates in today," and just like that we start using these gum sheets.

Q. Who is authorized to approve exceptions on the gum sheets? A. Anyone in supervision can authorize an exception on the gum sheet.

[688] Q. Can an employee? A. No.

Q. Would you describe for us the hiring of employees for the finishing and warehouse departments as to the approximate numbers and dates? A. Well, we hired—We increased our payroll, number of people on our payroll by about 125 or 30 people over a period of some eight or nine weeks.

Q. Beginning when, sir? A. The first of October. We hired, oh, 20, 25, 30 people in a period of three or four days in our early start up.

Q. Mr. Stubblefield, there has been reference throughout this hearing to your arrival time at work on Saturday, December 8, 1973. Would you tell us what time you arrived that day? A. Between 7:30 and 8:00 a.m.

Q. Is it possible, sir, that you could have been in the plant that day as early as 7:00 a.m.? A. No. I didn't leave home until after 7:30 that day.

Q. It was also testified that you rarely came into the plant on Saturday. Would you comment on that, please? A. Well, there has been few Saturdays since that plant opened in July that I failed to be in the plant on Saturday sometime during the day. [689] Q. You were there on other Saturdays, sir? A. Many other Saturdays.

* * * * *

[692] Q. (By Mr. Rolnick) Mr. Stubblefield, there has been testimony in this hearing that on Monday, December 10, at various times of that day you were observed out in the plant. Would you tell us, if you would, your whereabouts on December 10 beginning with when you arrived in the morning? What did you do? A. Well, I was in the plant on Monday, December 10, and I was out in the manufacturing area during part of that day.

Q. When did you first go into the plant that day? A. Right after 7:00 o'clock in the morning.

[693] Q. How long did you stay there, sir? A. Several minutes.

Q. Then what did you do? A. I returned to my office and made some telephone calls.

Q. Was one of the calls to Mr. Lipshie that you referred to? A. Yes, it was.

Q. Did you later go back out in the plant? A. Yes, I did.

Q. How long did you stay out in the plant then? A. Quite awhile. I was out there for several minutes.

Q. Half hour, hour, two hours? A. Probably half hour.

Q. Was anyone with you, sir? A. At different times I talked with different people. I know Billy McClain was with me part of the time. Richard Ray was with me part of the time. I remember those two individuals particularly. I had some conversation with Harold Kane. He had just returned from a school in Dallas where he attended a seminar in Dallas.

Judge Goerlich: What was this date?

The Witness: December the 10th.

Judge Goerlich: December the 10th.

Q. (By Mr. Reclnick) Mr. Stubblefield, was Mr. Kane in [694] the plant on December 10? A. No. It was Fred Rios. I'm sorry. Fred Rios was over from Mexico and Fred and I talked about his being over there and Kane going to Dallas. We had been experiencing a lot of problems with the button-hole machines there in Carrizo Springs and I was talking to Fred about what he could possibly do to help in addition to what we were already doing.

Q. There has been some testimony in this hearing that you spent time out on the floor that day looking in various directions and some things like this. What were you doing out there? A. Well, of course, I'm generally looking in some direction whether I'm on a manufacturing floor or sitting in this room. But my real reason for being out on the floor that particular day, other than just common observation or just common practice that I go out on the floor, was the conversation I had had the Saturday before and become aware of the fact that there was supposed to have been a meeting of dissatisfied employees and I felt like that if I walked around out on the floor a little bit and spoke to some people, that if someone was real dissatisfied they might accidentally say something to me about the situation, they might bring something up which would give me an idea

as to what they were dissatisfied [695] about and I could discuss it with them.

Another thing was that problem with quality. I wanted to go out in the area and see exactly what problems we had, if any, at that time.

Q. Did you spend any time that day looking at any particular people? A. Well, Billy and I spent some. I wouldn't say it was a long period of time, but I know that we did discuss Pedro Patlan because he was supposed to have been at the meeting of dissatisfied employees. And I talked with Billy about it and I said, I pointed out to him that Pete was standing leaning against a table talking to someone over there, and I told him that I didn't think he was performing his supervisory duties as he should because while Billy and I were standing there discussing the situation he obviously was not doing anything really.

* * * * *

[697] Q. Mr. Stubblefield, if you would, please describe for us in some detail the working relationship between you and the other supervisors and a former employee of the plant in the office by the name of Rebecca Patlan. [698] A. Well, Rebecca worked in the office for four or five weeks there and any person working in the office has a certain relationship, or the responsibility of a person in the office is quite different from a person operating a machine out in the plant or performing work that is repetition, they handle a pair of pants, they press one leg, they press the other leg, they lay it down, and this is quite obvious. And the atmosphere and working relationship between people working in an office has to be such that communications are always good. Their relationship has to be good for them to function properly and be able to do a satisfactory job.

Judge Goerlich: Well, had Mrs. Patlan been a satisfactory employee?

The Witness: For the most part, yes, sir.

Q. (By Mr. Rolnick) Well, if she was a satisfactory employee, Mr. Stubblefield, can you give me any reason why she was terminated at the same time her husband was terminated? A. It is pretty obvious that she is not going to be too happy about her husband being fired and I don't think that that would tend to establish a good working relationship between the employee and employer such as myself and Mr. Graves, who was the office manager, and Mrs. Patlan after her husband had been fired.

[699] Q. How much contact did you have with Mrs. Patlan when she was working in there? A. Well, when I was in the plant it was very frequent.

Q. On what basis, sir? A. Oh, typing. She typed my letters. She prepared the checks that I signed. O.K.'d various invoices and she would prepare the checks for my signature. She placed telephone calls for me. She received incoming telephone calls and messages. Various duties that a person would do.

Q. Did she have anything to do with payroll? A. Yes, sir. She was learning payroll. At that time we had a very small office force and we were trying to get the people in the cutting department—It is a little different the way they keep records of the time they spend on the cutting operations such as spread, cut, and tie-up. The operators themselves record their clock card number in a certain location on the work sheet and the time they start the job and how many bundles they do and this sort of thing. They actually keep their own record so to speak.

And we had been—We had explained this process and the importance of keeping this with the operators in the cutting department but we had not been too successful in getting these forms filled out 100 percent. [700] And Mr. Graves and I discussed it and we thought possibly Rebecca could be of use on this job trying to convey the message, figure the sheets, and when she was unable to figure the sheets or compute the earnings from the records the operator kept, that she would convey

back to the operator the proper way to record their time and keep track of the bundles they did and this sort of thing.

Q. Do you have a private office at the plant? A. Yes, sir.

Q. Where is that office located in relationship to where Mrs. Patlan—— A. They are adjoining.

Q. Did Mrs. Patlan ever have occasion to come into your office? A. Yes, sir.

Q. Are there any documents you keep in your office? A. Most all of them.

Q. Including confidential documents? A. Very confidential.

Mr. Rolnick: I have no further questions of this witness, your Honor.

Judge Goerlich: Well, let's see, the reporter has been going for an hour and 15 minutes. We'll take a short recess.

[701] (A short recess was taken.)

Judge Goerlich: On the record.

Mr. Linton?

Mr. Linton: Yes, sir, your Honor. I do have a few questions.

Cross-Examination

Q. (By Mr. Linton) Mr. Stubblefield, you mentioned about Mr. Hughes giving the explanation on the new piece rate system. I believe that was November 30. Is that right? A. Yes, sir. That's correct.

Q. And I think you said he went into a lot of detail on it then. Is that so? A. Yes, sir.

Q. Did he give a lot of figures? A. Well, yes. It involves the production figures, expected earning figures, this sort of thing.

Q. Now, did you have somebody give the explanation in Spanish also? A. No. We didn't.

Q. Just about all of the people in the finishing department are Spanish speaking, aren't they, or of Mexican ancestry, Spanish-American people? A. Most of them are of Latin descent. However, most all of them speak English also.

[702] Q. Do you know whether most of them actually never went very far in school? A. Well, a good many of them didn't go through too many years of formal education. However, most all of them, I mean all of them that I have talked with, and I've talked with most of them in English because I can't speak Spanish, seem to have a good understanding. They understand what is being said to them and they can carry on a good conversation in English.

* * * * *

[703] Q. (By Mr. Linton) Now, you mentioned that on Monday, December 10, the day the Patlans were discharged, for a while you were out on the plant floor there in the finishing department.

You took me on a tour through that department, didn't you, when I was down here in January? A. Yes, sir. I believe you and Richard Ray and myself went out on the floor.

Q. Now, in that finishing department, the presses, for an example, are there a couple of rows of presses lined up stretching all across the plant floor there? A. There is one single row of presses that reaches across the floor almost from wall to wall, hardly that far, and there is then a center aisle between the top presses, toppers and the leg presses.

Q. All right. Now, let's say—At any rate isn't it what you might call sort of a shotgun arrangement? Well, if you are standing at either end of the, the department there, you can look down and see just about everybody in there? [704] A. Yes, sir.

Q. When you discharged Rebecca Patlan, you didn't explain anything to her about why her husband was being discharged, did you? I mean about the fact that you were aware that he had attended a meeting or at least it had been reported to you that he had attended a meeting and you didn't think this was what a supervisor should be doing. A. No.

Judge Goerlich: Were you the one who discharged Mrs. Patlan?

The Witness: No, sir.

Q. (By Mr. Linton) Well, I beg your pardon then. But did you undertake to tell her that? A. No.

Q. Was Hobart Graves the one who actually discharged her? A. Yes, sir.

Judge Goerlich: Were you the one who made the decision?

The Witness: Yes, sir. The final decision was mine. I discussed it with Hobart Graves, her supervisor. We agreed.

Q. (By Mr. Linton) How long had she been in training there in the payroll section of the office just before [705] her discharge? A. About a week, I'd say. Somewhere around a week, I think.

Q. Could it have been as much as two weeks? A. It could have been, yes, sir.

Q. As of December 10, how many people did you have working in the office? A. Four or five people, I believe.

Q. Now, you had a lady there by the name of Mrs. Bert Laufton? A. Laufton, yes.

Q. What was her job?

Mr. Rolnick: Objection.

Judge Goerlich: What is the basis of your objection?

Mr. Rolnick: It is not relevant to any issue in this case. It just serves to prolong the hearing.

Mr. Linton: Your Honor, Repsondent by questions of Mr. Stubblefield talked about it being a very small office with few people and I want to inquire into the number of people that Mr. Stubblefield had in the office.

Judge Goerlich: You may inquire.

The question was whether—What was the name of the individual?

Mr. Linton: Mrs. Bert Laufton.

Judge Goerlich: I'll allow him to answer that [706] question.

Q. (By Mr. Linton) What job did she perform? A. Basically, her function was to keep the records on the piece goods.

Q. And you had some other females, secretary, clerks, working in the office? A. Yes.

Q. And who were they? A. We had a girl by the name of Brenda. Her last name escapes me right now. I can't tell you what her last name is.

We had just hired a girl by the name of Jennifer Jackson and I believe there was a girl in there by the name of Carolyn Dickson. I'm not sure that she was there at that time, but I really think that she was. She was only a, oh, temporary, you might say, help. She didn't want full-time employment so he had brought her in to do some work.

Q. Is that all you can recall? A. We had a fellow—We've got a fellow by the name of Gary Barton who works part time in the office and part time out in receiving area.

Q. Now, Mr. Grave's office is next to your's, is that right? A. Well, Mr. Grave's office is located in the corner [707] of the main office and there is a short hallway that goes by Mr. Graves's office into my office from the main office.

Q. As one comes into the front door of the plant, he walks into a hallway or lobby area. Is that right? A. That's right.

Q. And then on the left side is the personnel office? A. Yes.

Q. On the right side the doorway leads into the general office area. Is that right? A. Correct.

Q. And there are desks on the right side and desks on the left side. Is that right, sir? A. Yes.

Q. And go for perhaps 50 feet, something like that, to you come to a walled in office area. That would be Mr. Graves's office on the right portion of the general office area? A. No. It isn't 50 feet.

Q. It is not that far? A. No. It would be more like 30 feet.

Q. All right, sir.

At any rate then, you can go past his office in the little hallway that you've mentioned and come to your office, right? [708]

A. That's right.

Q. So your office is really at the end of the general office area and is by itself down there, alone. Is that correct? I mean, your office is all walled in, separate, and private. A. Yes.

Q. When Rebecca Patlan was moved to work in the payroll, did she work out there in the general office area? A. Yes.

Q. Where were the confidential files located that you say that Rebecca Patlan had access to? Or maybe I'm not quoting you correctly. Did you testify that you gave Rebecca Patlan access to confidential files? A. She had access to them if she so desired. They were in my office.

Q. In your private office back there? A. Yes.

Q. You say she had access if she so desired. A. Anyone working in the office area would have access to them because I do not lock my office door when I am only leaving to go out into the plant or even go to town or some such thing. Unless I'm going to leave for the night or for the remaining

part of the day, I leave the office door not just unlocked but open, standing open.

[709] Q. Isn't it true that those files that you kept in your office, you were the one who maintained those files and put the documents in there yourself? A. Yes. I did at that time. However, it was not my intention to continue to do that because I am not my own file clerk.

Q. But that was what was being done at that time? A. That was the practice right then. I intended to teach the person that was finally assigned to the job how to keep the files in my office as well as the ones in the general office.

Q. And for the last week or two that Rebecca Patlan worked there she had been switched over to be the payroll clerk or one of the payroll clerks. Is that right? A. Well, at that time we didn't do the payroll there. We were only figuring the earnings of the individual operators and transmitting this information to the office in the headquarters for that division and they actually wrote the checks. However, in December we started writing the checks in Carrizo Springs, Texas and further developing our payroll.

Q. You mentioned earlier that you had given previous speeches at other plants in which you had just as, I believe you said as a custom you mentioned about unions. Is that right? [710] A. Yes, sir.

Q. Even when there wasn't any union organizing going on? A. That's correct.

Q. Did you bring any copies of those speeches to show to us? A. No.

Q. The plants that you have in Mexico, were they there already or did your Company build them? A. We built them.

Judge Goerlich: Do they predate the plant here in Carrizo Springs or were they all built about the same time?

The Witness: One of them did. However, the other two, we had the opening dedication for Roberto or for the second plant in May of last year and we moved into the building in Carrizo Springs in July. Then the third plant in Piedras Negras, we moved into it in October.

Q. (By Mr. Linton) In terms of dollars, the wages paid to sewing machine operators in Mexico is less than what it would be here in the State of Texas. Is that right.

* * * * *

[714] Whereupon,

ESMERALDA CARDENAS

was called as a witness by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

Judge Goerlich: Be seated, please. And give us your full name.

The Witness: Esmeralda Cardenas.

Judge Goerlich: Your address, please.

The Witness: 1302 North 11th Street, Carrizo Springs.

Judge Goerlich: And your age?

The Witness: 22.

Judge Goerlich: Go ahead, Mr. Rolnick.

Will you speak loud enough so we all can hear you?

Direct Examination

Q. (By Mr. Rolnick) Mrs. Cardenas, do you work for Carrizo Manufacturing? [715] A. I do.

Q. In Carrizo Springs, Texas? A. I do.

Q. What is your job? A. Topper.

Q. How long have you worked for the Company? A. Since the last week of October.

Q. Are you here today testifying under subpoena? A. Yes, sir.

Q. When you—Do you recall an individual who worked for the Company by the name of Pedro Patlan? A. Yes.

Q. Is he here in the courtroom? A. Yes, sir.

Q. Would you tell us—Did you ever have occasion to speak to Mr. Patlan about getting time off from work? A. Yes.

Q. Would you tell us about when it was and how it came about and what was said? A. Well, I don't remember the date, but one day I asked him if I could go to court. He said it's O.K. And I asked him if I had to ask Bill. He said no, that he was going to tell him later. I believe that is the only time.

Q. You say your regular job was as a topper? [716] A. Yes.

Q. That is top presser for pants? A. Right.

Q. Were you ever moved to another job? A. Yes.

Q. Who would move you? A. Well, Pete or Carlos.

Q. What would they say to you? A. Well, they told me to, that they had enough pants and that I have to go to do some sorting. Sometimes they would ask me if it was O.K., if I wanted to go back and sort.

Q. Would they take all the toppers and put them on sorting or just a few? A. No. I think it was only me. No, sir. Just one.

Q. Just one.

Now, would you ever—Did it ever happen that you would have to stop doing one color of pants in order to have another

color come through the line? A. No. We were always told to finish one color, then to start the other.

Q. Who would tell you this? A. Pete or Carlos.

Q. Did you ever have any conversation with Pete Patlan about the quality of your work? [717] A. What do you mean?

Q. About whether you should press certain pants or not. A. Well, actually, with Carlos.

Q. With Carlos? What was that conversation? A. Well, sometimes some pants were kind of wrinkled and they didn't press right because I think they weren't sewed right. So I would ask him if I should go ahead and iron, press them or not. He would say yes or no.

Judge Goerlich: What does a topper do?

The Witness: We press the top of the pants.

Judge Goerlich: Very well.

Q. (By Mr. Rolnick) Why would you ask Pete or Carlos about whether or not to press certain pants? A. Well, because they would have some wrinkles.

Q. Why not ask the operator next to you? A. Well, because I don't think—I should always—I thought they should tell us if we should go ahead or not, not the other person.

Q. Who is "they"? A. Pete or Carlos.

Judge Goerlich: Did they have somebody pressing legs and somebody pressing tops?

The Witness: Yes, sir.

Judge Goerlich: Was that the only pressers, the [718] ones that pressed legs and tops or was there another presser?

The Witness: Just tops and legs.

Judge Goerlich: Did you press the tops first before the legs were pressed?

The Witness: Yes, sir. Yes, sir.

Judge Goerlich: When you received them, the pants were already finished. Is that right?

The Witness: Yes, sir.

Judge Goerlich: They came to you in bundles, did they?

The Witness: Yes. They come in six, eight dozens a bundle.

Judge Goerlich: You opened up the bundle and pressed the tops. How would you do it? Tell me how you did it.

The Witness: Well, there were some who did buttonholes. There had to be buttonholes. They would put them on the table. After they finished, we would go and get them and top, press the tops.

Judge Goerlich: After the buttonholes were put in you would press the tops?

The Witness: That's right.

Judge Goerlich: Now, you mentioned wrinkles. Were the wrinkles in before you pressed them or after you [719] pressed them?

The Witness: After we pressed them. Sometimes they are kind of sewed here in the pocket—There's—I don't know—So we try to fix them up but there are times they had a little wrinkle so that's when I asked.

Judge Goerlich: What did you ask about the wrinkle?

The Witness: Well, I asked him if I should go ahead and press them or not.

Judge Goerlich: Was the wrinkle in before you pressed them?

The Witness: After.

Judge Goerlich: You mean repress them?

The Witness: Well, yeah. They were—They had little wrinkles before. Then I pressed them but they wouldn't—Still after we pressed they have a little wrinkle and we tried to fix them up but we can't. It would still be there.

Judge Goerlich: And what did you do with it at that point?

The Witness: Well, I asked him. He said to go ahead. Inspection, they would probably put them to repairs.

Judge Goerlich: Very well.

Mr. Rolnick: Your Honor, just so the record is clear here. One of your questions that you asked the [720] witness you said was the work finished when it came to this witness. This witness is part of the finishing department.

Judge Goerlich: I understand that. But what I meant, I think she understood me, was the garment completed by the time she picked it up.

Mr. Rolnick: If you mean sewn, yes.

Judge Goerlich: Yes. That's what I meant.

That is what you understood me to mean, did you not, when you answered? At the time you get them they are all completely sewn and ready to be pressed?

The Witness: Right.

Judge Goerlich: Very well.

Q. (By Mr. Rolnick) Did Pete ever talk to you about whether you were doing good work or bad work? A. No.

Q. Specifically, did he ever ask you—Did he ever tell you that your work was O.K.? A. Yes.

Mr. Rolnick: I have no further questions.

Cross-Examination

Q. (By Mr. Lin.on) Mrs. Cardenas, with respect to the time that you asked Mr. Patlan about taking off early to go to attend court, I take it that you don't know whether Mr. Patlan later on after that went and talked with Mr. [721] Bill McClain about his conversation with you. Is that right? A. No, sir. I don't know.

Judge Goerlich: What time of day did this occur?

The Witness: It was—I believe it was 9:30.

Judge Goerlich: 9:30 in the morning?

The Witness: Yes, sir.

Judge Goerlich: Did you return to work that day?

The Witness: Yes, I did. I only asked for a few minutes because I had to only go and ask my lawyer a question.

Judge Goerlich: How long were you gone on that occasion?

The Witness: About 15 or 20 minutes because he wasn't there. I just went and he wasn't there. So I just came back.

Judge Goerlich: Did you tell Mr. Patlan how long you would be gone?

The Witness: I asked him that I will be back, try to be back before the break was over.

Judge Goerlich: You asked him just before break?

The Witness: Yes. Before the first break.

Judge Goerlich: And how long is the break or was the break?

The Witness: It was 10 minutes.

[722] Judge Goerlich: You told him you thought you would be back before the break was over?

The Witness: Yeah. Because you see, there are two breaks. So I went the first break and I said I was going to try to be back by the second break. So it would be 20 minutes.

Judge Goerlich: 20 minutes. All right.
Go ahead, Mr. Linton.

Q. (By Mr. Linton) When you were, you say, moved from time to time to different jobs in the finishing department, I take it that you don't really know whether Mr. Patlan or Mr. Carlos Juarez had some previous conversation with Bill McClain about that, do you? A. No, sir, I don't.

Mr. Linton: I have no further questions.

Judge Goerlich: Any further questions of this witness?
The witness is excused.

(The witness was excused.)

Mr. Rolnick: Thank you.
Your Honor, may I have about a two-minute recess?

Judge Goerlich: Two-minute recess. Yes, sir.

(A short recess was taken.)

Judge Goerlich: On the record.

Whereupon,

[723]

RICHARD ESPINO

was called as a witness by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

Judge Goerlich: Be seated right there. State your full name, please.

The Witness: Richard Espino.

Judge Goerlich: Spell your last name.

The Witness: E-s-p-i-n-o.

Judge Goerlich: Your address, sir?

The Witness: It's 1300 North 13th Street.

Judge Goerlich: What city is that?

The Witness: Carrizo Springs.

Judge Goerlich: And your age?

The Witness: 19.

Judge Goerlich: Go ahead, sir.

Direct Examination

Q. (By Mr. Rolnick) Are you employed by Carrizo Manufacturing Company in Carrizo Springs, Texas? A. Yes, sir.

Q. How long have you worked for the Company? A. I'm going on six months.

Q. What is your job? A. I'm shipper.

Q. Directing your attention to on or about November 9, [724] 1973, were you present at the plant that day concerning an incident which arose about employee Roger Martinez? A. I was.

Q. Would you tell us what happened and what was said as best you remember? A. Well, like every morning we came over there into the plant back to the shipping department and we would get our orders, or I'll say just Roger would tell us what to do every morning. And that morning Mr. Carlos Juarez came over and he was going to tell us what to do that morning and then Roger spoke up and he said that nobody told him what to do. Then Billy McClain was called over to decide who was going to give the orders and that's

when Billy McClain told Roger that Carlos was going to tell us what to do from now on.

Q. How many other people were present? A. As far as I can think there was about three or four besides me.

Q. Do you remember what words Mr. McClain used when he said that, something about Mr. Carlos Juarez? A. I don't really remember the exact words, just that Roger asked him who tells the orders here and then Billy McClain told him that Carlos Juarez was the one.

Q. Was the word boss used at all? A. I don't really remember whether it was.

[725] Q. Or in charge or any term like that? A. As far as I know he just said who is going to give the orders.

Judge Goerlich: Was this conversation in English or in Spanish?

The Witness: Well, with Billy McClain it was in English.

Judge Goerlich: What?

The Witness: With Billy McClain it was in English.

Judge Goerlich: Very well.

Q. (By Mr. Rolnick) Did you ever have a conversation with Mr. Carlos Juarez about the shipping orders for Mexico? A. Yes, I did.

Q. Do you recall about when that conversation took place, where and what was said? A. The exact date I do not know. I really can't recall what time it was or anything. But Mr. Juarez wanted to know about—I usually sent that shipment to Mexico and he wanted to know how to fix my papers, how I knew what I was going to send, and what I did, how to load it and all that.

Q. Did he say why he wanted to know this? A. Well, that was—He said he wanted to know it in case some day I would

be absent from work, he could put [726] somebody else on it or he could do it himself.

Mr. Rolnick: I have no further questions.

Oh, one further question.

Q. (By Mr. Rolnick) Mr. Espino, are you testifying today under subpoena? A. I have been.

Mr. Rolnick: No further questions.

Cross-Examination

Q. (By Mr. Linton) Mr. Espino, you had been working back there in the warehouse or shipping area before Mr. Juarez was assigned back in that department. Isn't that so?

A. Yes. I had been there before he even, I think he even was there.

Q. Before he was even an employee? A. I recall about two or three or four, maybe.

Q. Two, three, or four weeks before? A. Days, I might say. I started some place else and then I was moved.

Q. Do you recall how long Mr. Juarez had been assigned to the warehouse area when you and he had that conversation? A. No. I can't recall that.

Q. At any rate, you had been working on that job for a good while before Carlos Juarez was assigned back to the warehouse. Is that so? [727] A. Yes. I had been employed there.

Judge Goerlich: What was your job?

The Witness: Well, when I first——

Judge Goerlich: What was your job at the time of the incident involving Mr. McClain that you talked about? What were you doing at that time?

The Witness: When was this?

Judge Goerlich: You testified that Mr. McClain came back and Juarez was there and made some remarks. Now, at that time what was your job?

The Witness: I was shipper then.

Judge Goerlich: What did you actually do as shipper?

The Witness: Well, every morning the truck got there and we had to unload it, move some boxes, this and that.

Judge Goerlich: Truck from where?

The Witness: From Mexico.

Judge Goerlich: You unloaded the truck. Is that it?

The Witness: Unloaded it.

Judge Goerlich: Unloaded it?

The Witness: Right. Every morning. Then every evening what I did was get the shipment ready to send it back to Mexico.

Judge Goerlich: Loaded the truck to go back to [728] Mexico?

The Witness: Right.

Judge Goerlich: Did the others help you with that or did you do that all yourself?

The Witness: Well, before that they did help me, but then I did that on my own. I drove the towmotor and loaded the truck, moved the cuts, and did my own paperwork for the truck. Usually, maybe got help from one or two guys. That's about it.

Judge Goerlich: Very well.

Go ahead, Mr. Linton.

Q. (By Mr. Linton) Did you see Billy McClain back in the warehouse area from time to time? A. Every once in a while since he was the only one around the shipping department and he had to take care of the—He usually was in front over here where the pressers and all that. Then he came to the bins. And after a while over here. Not very often but once in a while.

Judge Goerlich: How often was Mr. Juarez in that area?

The Witness: Sir?

Judge Goerlich: How often was Mr. Juarez in that area?

The Witness: He was mostly around there.

[729] Q. (By Mr. Linton) Since Mr. Juarez left, who, has Mr. McClain been back in the warehouse and shipping area more? A. Now he has been there more than usual.

Q. Has anyone taken Mr. Juarez's place so far as you can see? A. Not yet, no.

Mr. Linton: No further questions.

Mr. Rolnick: No questions.

Judge Goerlich: The witness is excused.

Whereupon,

ALEX BUSTAMANTE

was called as a witness by and on behalf of the Respondent and, having been first duly sworn, was examined and testified as follows:

Judge Goerlich: Be seated, please. And give us your full name.

The Witness: Alex Bustamante.

Judge Goerlich: Will you spell your last name for me?

The Witness: B-u-s-t-a-m-a-n-t-e.

Judge Goerlich: Very well. Your address?

The Witness: Box 450, Asherton.

Judge Goerlich: Your age?

[730] The Witness: 19.

Direct Examination

Q. (By Mr. Rolnick) Mr. Bustamante, if you would, please try and keep your voice up so we can hear you all the way in the back, O K.?

Judge Goerlich: Did you get his age? Your age, sir?

The Witness: 19.

Q. (By Mr. Rolnick) Do you work for Carrizo Manufacturing Company at Carrizo Springs, Texas? A. Yes, sir.

Q. How long have you worked for that Company? A. Five months.

Q. Are you testifying here today under subpoena? A. Yes.

* * * * *

[736] Q. Mr. Bustamante, do you recall a person that worked at the plant by the name of Carlos Juarez? A. Yes.

Q. Do you see him here in the courtroom? A. Yes, sir.

Q. Did Mr. Garcia ever talk to you about your work? A. Yes, sir.

Q. When was this, sir? A. Well, one time I was doing less dozens and Harpo [737] told him to take me to the office.

Q. Harpo told who to take you to the office? A. Carlos.

Q. What did Mr. Juarez say to you? A. Nothing. Only Harpo.

Q. How—Where was the conversation with Harpo? A. In the office.

Q. In his office? A. Yeah.

Q. In Harpo Garcia's office? A. Yeah.

Q. Who was there when Mr. Garcia was talking to you? A. Only Carlos.

Q. Carlos Juarez? A. Yes.

Mr. Linton: And who else?

Your Honor, I am really having trouble hearing the witness.

Judge Goerlich: Would you please speak up a little louder so that Mr. Linton can hear what you have to say?

Q. (By Mr. Rolnick) How long had you been working for the Company when this conversation took place? A. About two days.

Q. Two days.

And once again, what did Mr. Garcia tell you? [738] A. To—Harpo?

Q. Yes. A. To—If I don't do about 42 dozens, they were going to kick me out.

Q. They were going to kick you out? A. Yeah.

Q. Now, the next day, did you do leg pressing the next day? A. (The witness nodded affirmatively.)

Q. Did you have any conversation with Mr. Juarez? A. (The witness nodded affirmatively.)

Q. What was that conversation? A. He told me that I was doing better, was doing O.K.

Q. Do you recall a person that worked at the Company by the name of Pete Patlan? A. Yes, sir.

Q. Is he here in the courtroom? A. Yes, sir.

Q. Did Mr. Patlan ever tell you to go hang pants? A. Yeah. Only one time that I finished my job.

Q. One time.

Now, if you would, tell us about what time of day that was, sir? A. In the morning, I think. Morning.

Q. How early in the morning? [739] A. 7:00.

Q. 7:00 a.m.

And what did Mr. Patlan say to you? A. Just to go and hang pants.

Q. Told you to go hang pants? A. Yeah.

Q. Did he speak to you again that day or did you speak to him? A. Yeah.

Q. When was that? A. When I finished that job.

Q. Which was about what time? A. About 8:00.

Q. What did you do then? A. Go to leg pressers.

Q. Well, at 8:00 o'clock did you have a conversation with Mr. Patlan? A. Yes.

Q. Did he come to you or did you come to him? A. I went to him, because I finished.

Q. You went to him and you told him that you had finished? A. Yeah.

Q. What did he say? A. It was O.K. and to go back to work where I was.

[740] Q. Go back to where you were, which meant what? A. Over to the leg press.

Q. Was that your regular job? A. Yeah.

Q. Did you have a sticker sheet or gum sheet with you? A. Yes, sir.

Q. What did you do with it? Did you speak to him about it?
A. Yeah.

Q. What did he do? A. He just wrote the time that I started.

Mr. Rolnick: I have no further questions.

Judge Goerlich: Mr. Linton.

Cross-Examination

* * * * *

[743] Q. Mr. Bustamante, when you say that you and Carlos Juarez went in a room to talk, did you speak in Spanish or English? A. Spanish.

Q. As a matter of fact, you are a lot more fluent, or you are a lot more comfortable talking in Spanish than you are in English. Is that right? A. Yes, sir.

Q. Do you have difficulty with some English or expressing yourself in English? A. Yes, sir.

Q. Do you sometimes have problems understanding things that are said in English? A. Yes, sir.

Q. Isn't it true, sir, that no one ever told you that Carlos Juarez was a boss? A. No, sir.

Q. You mean it is not true or do you mean that—— A. He was just a helper.

Q. All right. Isn't it true no one ever came up to you— Let's say, isn't it true that Harpo Garcia never told you that Carlos was a boss? A. No, sir.

Q. Harpo Garcia never did say that, did he? A. No, sir.

[744] Mr. Rolnick: Your Honor, I am going to object to the question until Counsel for General Counsel asks the witness what he means by boss. The witness may have a different interpretation of that word than Counsel for the General Counsel.

Judge Goerlich: Well, that may be. But he is asking him whether Garcia ever used that word to him. Apparently the witness's answer is that he never did.

Q. (By Mr. Linton) And you know Billy McClain, don't you? A. Yes, sir.

Q. And it is true that Billy McClain never told you that Carlos Juarez was a boss? A. No, sir.

Q. Well, it is true he never said that to you? A. No, sir.

Q. Did Billy McClain ever tell you that Carlos Juarez was a boss? A. No, sir.

Q. Did Billy McClain ever tell you that Pedro Patlan was a boss? A. No, sir.

Mr. Rolnick: Now, there is the objection, your Honor.

Judge Goerlich: On what grounds?

[745] Mr. Rolnick: Excuse me. I'll withdraw that objection.

Judge Goerlich: It is just the matter if he said it or didn't say it.

Mr. Rolnick: O.K. Fine. I'll cover it on redirect.

Q. (By Mr. Linton) Did Harpo Garcia ever tell you that Pedro Patlan was a boss? A. No, sir.

Q. When Pete or Pedro Patlan would tell you to do certain jobs or things, isn't it true that he would tell you that Billy McClain wanted you to do that? A. Only sometimes.

Mr. Linton: No further questions.

Mr. Rolnick: I've got a couple of questions here.

Judge Goerlich: Very well. You may inquire.

Redirect Examination

Q. (By Mr. Rolnick) Mr. Bustamante, what does the word boss mean to you as far as it applies to the plant in Carrizo Springs? Who is the boss? A. The big man, the real big one. A big man like Mr.——

Q. Like Mr. Stubblefield? A. Yeah.

Q. What does it mean—Have you ever used the term “in charge?” A. Yes.

[746] Q. What does that mean to you? A. Like the others that he tells them what to do, the boss to them.

Q. Who was in charge as you understand it of the finishing department, the leg pressers? A. Carlos.

Q. And then after Carlos who else? A. Pete.

Q. Who told you what to do, what to do next during the day? A. The one that was in charge in there.

Q. The one who was in charge.

* * * * *

[748] I recall Mrs. Rebecca Patlan.

Whereupon,

REBECCA PATLAN

was recalled as a witness by and on behalf of the General Counsel and, having been previously sworn, was examined and testified further as follows:

Judge Goerlich: You may be seated.

Are you the same Mrs. Patlan who testified heretofore in this proceeding?

The Witness: Yes.

Judge Goerlich: I caution you that you are still under oath. Do you understand that?

The Witness: Yes.

Judge Goerlich: You may proceed.

[749]

Direct Examination

Q. (By Mr. Linton) Mrs. Pailan, when you worked in the office there and before you were assigned to the payroll section, would there be mail come for Mr. Stubblefield at the office? A. Yes.

Q. How was this handled? Who opened it? A. As far as to my knowledge, all Mr. Stubblefield's mail I had been told would be date stamped on the envelope and given to Mr. Graves with the rest of the mail. Everything would pass Mr. Graves's office, desk.

Q. When did you learn that there were files in Mr. Stubblefield's office? A. This morning when he said that.

Q. He never told you about that previously? A. No.

Q. He never told you that you could go into the files he kept in his office? A. No. Because I never knew there were files in there.

Q. Now, after you were assigned to the payroll section, who would type some letters or whatever letters that Mr. Stubblefield would have someone type to your knowledge? A. To my knowledge, Jennifer Jackson. As I said the first day, I was training two girls, Brenda and Jennifer Jackson and Jennifer seemed to be able to do it better.

[750] Mr. Linton: No further questions.

Mr. Rolnick: One question.

Cross-Examination

Q. (By Mr. Rolnick) When a letter came to the Carrizo Springs plant addressed to Mr. Perry Stubblefield, do you know whether the practice was to stamp the letter or stamp the envelope? A. I was told by Mr. Graves to give him the stamped envelope still closed and give him the date stamp and he would stamp it. He wanted to see everything himself before it personally went to Mr. Stubblefield.

Q. So to the best of your knowledge do you know whether or not the letter was opened? A. No.

Mr. Rolnick: No further questions.

Redirect Examination

Q. (By Mr. Linton) Counsel asked you to the best of your knowledge you didn't know whether the letter was opened. Was it opened by you? A. No.

Q. All right.

Mr. Linton: No further questions.

* * * * *

[753] Judge Goerlich: This trial is now closed.

(Whereupon, at 12:00 noon, the hearing in the above-entitled matter was closed.)

* * * * *

GENERAL COUNSEL'S EXHIBIT 1(a)

FORM NLRB-501 (2-6-71)		Form Approved Budget Number No. 48-00-112	
UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER			
INSTRUCTIONS: File an original and 4 copies of this charge with NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.		DO NOT WRITE IN THIS SPACE Case No. 23-CA-4938-1 Date Filed December 17, 1973	
1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer Solent and Clout d/b/a Carrizo Mfg.		b. Number of Workers Employed 140	
c. Address of Establishment (street and number, city, State, and ZIP code) P.O. Box 397, Carrizo Springs, Texas 78034		d. Employer Representative to Contact Harpo Garcia Personnel Manager	
e. Type of Establishment (factory, mine, wholesaler, etc.) Clothing Manufacturer		f. Identify Principal Product or Service Clothing	
h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a), subsections (1) and (1) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.			
2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.) <p>On or about December 12, 1973, it, by its officers, agents, and representatives terminated the employment of Carlos Juarez, because of their membership and activities in behalf of <u>Trereros Unidos Independientes</u>, a labor organization, and at all times since such date it has refused and does now refuse to employ the above-named employees.</p>			
NATIONAL LABOR RELATIONS BOARD 23-CA-4938-1 Docket No. <u>23-CA-4938-2</u> OFFICE OF THE GENERAL COUNSEL GC-1(a)-Haa 1(h) Disposition: <input checked="" type="checkbox"/> Init. <input checked="" type="checkbox"/> Re. <input type="checkbox"/> Rept. In the matter of <u>Solent Corporation</u> Date <u>3-12-74</u> Witness <u> </u> Reporter <u>Whight</u> No. Pages <u>15</u>			
By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.			
3. Full Name of Party Filing Charge (If labor organization, give full name, including local name and number) Trereros Unidos Independientes			
4a. Address (Street and number, city, State, and ZIP code) P.O. Box 600, Crystal City, Texas 78039			4b. Telephone No. (512) 374-3420 or 3429
5. Full Name of National or International Labor Organization of Which It is an Affiliate or Constituent Unit (To be filled in when charge is filed by a labor organization)			
6. DECLARATION			
I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.			
By <u>Hector Rodriguez</u> (Signature of representative of person filing charge) Hector Rodriguez Address <u>1207 North Ave. #1</u> <u>Crystal City, Texas 78039</u>		Organizer (Title, if any) (512) 374-3420 (512) 374-3420 (Telephone number) 12-15-1973 (Date)	
WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)			

GENERAL COUNSEL'S EXHIBIT 1(b)

226-4271

December 17, 1973

Salant and Salant d/b/a Carriso Mfg.
Attn: Harpo Garcia, Personnel Manager
P. O. Box 397
Carriso Springs, Texas 78834

Re: Salant and Salant d/b/a Carriso Mfg.
Case No. 23-CA-4938-1

Gentlemen:

A charge has been filed with this office alleging that you have engaged and are engaging in unfair labor practices within the meaning of the National Labor Relations Act, as amended. A copy of the charge is herewith served upon you. Also enclosed is a copy of Form NLRB-4541, pertaining to our investigative and voluntary adjustment procedures.

Attention is called to your right, and the right of any party, to be represented by counsel or other representative in any proceeding before the National Labor Relations Board and the Courts. In the event you choose to have a representative appear on your behalf, please have your representative complete "Notice of Appearance" Form NLRB-4701 and forward it promptly to this office. Also enclosed is Form NLRB-4813 which you may file should you wish to designate a representative as your agent to receive exclusive service of all documents and written communications relating to this proceeding. Please note that this form must be signed by the party and not by an attorney or other representative designated to represent you in this proceeding (see the second paragraph of the enclosed Notice to Parties, Form NLRB-4541).

You are requested to submit promptly a complete written account of the facts and a statement of your position in respect to the allegations set forth in the charge. All communications and submissions should be made to the Board Agent indicated below.

Your cooperation with this office is invited so that all facts of the case may be considered.

Very truly yours,

Louis V. Baldwin, Jr.
Louis V. Baldwin, Jr.
Regional Director

Enclosures
REGISTERED MAIL 205073
RETURN RECEIPT REQUESTED

Case assigned to:
RICHARD J. LINTON, ATTORNEY

cc: Obreros Unidos Independientes
P. O. Box 688
Crystal City, Texas 78839

Agent's Telephone Number:
AC 713/226-4937

Mr. Hector Rodriguez
1207 North Ave. A
Crystal City, Texas 78839

Constancy & Prewell
Attn: George Smith, Attorney
230 Peach Tree St., N.W., 1900 Peach Tree Center, Atlanta, GA 30304

GENERAL COUNSEL'S EXHIBIT 1(c)

Form Approved
Budget Bureau No. 64-10011-1

UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER

INSTRUCTIONS: File an original and 4 copies of this charge with NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring

DO NOT WRITE IN THIS SPACE

Case No. **23-CA-4938-2**

Date Filed **December 17, 1973**

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Salant and Salant d/b/a Carrizo, Inc.	b. Number of Workers Employed 140
c. Address of Establishment (Street and number, city, State, and ZIP code) P.O. Box 397, Carrizo Springs, Texas 78834	d. Employer Representative to Contact Harpo Garcia Personnel Manager
e. Phone No. 512-876-5236	f. Identify Principal Product or Service Clothing

h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and **(3)** of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

On or about December 10, 1973, it, by its officers, agents, and representatives terminated the employment of Alberto Esquivel, Jose Sosa, Pedro Patlan and Rebecca Patlan because of their membership and activities in behalf of Obreros Unidos Independientes, a labor organization, and at all times since such date it has refused and does now refuse to employ the above-named employees.

By the above and other acts, the above-named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

3. Full Name of Party Filing Charge (If labor organization, give full name, including local name and number)

Obreros Unidos Independientes

4a. Address (Street and number, city, State, and ZIP code)
P.O. Box 688, Crystal City, Texas 78839

4b. Telephone No.
**(512) 374-3420
or 3429**

5. Full Name of National or International Labor Organization of Which It is an Affiliate or Cooperator (Not to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By

Hector Rodriguez
(Signature of representative or person filing charge)

Organizer

(Title, if any)

HECTOR RODRIGUEZ

(512) 374-3429

Address **1207 North Ave. A**

(512) 374-3420

Crystal City, Texas 78839

(Telephone number)

Dec 15 1973
(Date)

WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

GENERAL COUNSEL'S EXHIBIT 1(d)

226-4271

December 17, 1973

Salant and Salant d/b/a Carriso Mfg.
Attn: Harpo Garcia, Personnel Manager
P. O. Box 397
Carriso Springs, Texas 78834

Re: Salant and Salant d/b/a Carriso Mfg.
Case No. 23-CA-4938-2

Gentlemen:

A charge has been filed with this office alleging that you have engaged and are engaging in unfair labor practices within the meaning of the National Labor Relations Act, as amended. A copy of the charge is herewith served upon you. Also enclosed is a copy of Form NLRB-4541, pertaining to our investigative and voluntary adjustment procedures.

Attention is called to your right, and the right of any party, to be represented by counsel or other representative in any proceeding before the National Labor Relations Board and the Courts. In the event you choose to have a representative appear on your behalf, please have your representative complete "Notice of Appearance" Form NLRB-4701 and forward it promptly to this office. Also enclosed is Form NLRB-4813 which you may file should you wish to designate a representative as your agent to receive exclusive service of all documents and written communications relating to this proceeding. Please note that this form must be signed by the party and not by an attorney or other representative designated to represent you in this proceeding (see the second paragraph of the enclosed Notice to Parties, Form NLRB-4541).

You are requested to submit promptly a complete written account of the facts and a statement of your position in respect to the allegations set forth in the charge. All communications and submissions should be made to the Board Agent indicated below.

Your cooperation with this office is invited so that all facts of the case may be considered.

Very truly yours,

Louis V. Baldwin, Jr.
Louis V. Baldwin, Jr.
Regional Director

Enclosures 205074
REGISTERED MAIL
RETURN RECEIPT REQUESTED

Case assigned to:
RICHARD J. LINTON, ATTORNEY

Agent's Telephone Number:
AC 713/226-4937

cc: Obreros Unidos Independientes
P. O. Box 688
Crystal City, Texas 78839

Mr. Hector Rodriguez
1207 North Ave. A
Crystal City, Texas 78339

Constancy & Prowell
Attn: George Smith, Attorney
250 Peachtree St., S.W., 1900 Peach Tree Center Bldg., Atlanta, GA 30303

GENERAL COUNSEL'S EXHIBIT 1(e)

United States of America
Before the National Labor Relations Board
Region Twenty-Three

Salant Corporation, d/b/a Carrizo Manufacturing Co., Inc.	} Cases Nos. 23-CA-4938-1 23-CA-4938-2
and	
Obreros Unidos Independientes	

**Order Consolidating Cases and Consolidated
Complaint and Notice of Hearing**

It having been charged in Cases Nos. 23-CA-4938-1 and 23-CA-4938-2 by Obreros Unidos Independientes, herein called the Union, that Salant Corporation, d/b/a Carrizo Manufacturing Co., Inc., herein called Respondent, has engaged in, and is engaging in, unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C., Section 151, *et seq.*, herein called the Act, the General Counsel of the National Labor Relations Board, herein called the Board, by the Regional Director for Region Twenty-three, having duly considered the matter and deeming it necessary in order to effectuate the purposes of the Act, and to avoid unnecessary cost or delay,

Hereby Orders, pursuant to Section 102.33 of the Board's Rules and Regulations, Series 8, as amended, that these cases be, and they hereby are, consolidated.

Said cases having been consolidated for hearing, the General Counsel of the Board, on behalf of the Board, by the Regional Director, pursuant to Section 10(b) of the Act and Sec-

tion 102.15 of the Board's Rules and Regulations, Series 8, as amended, hereby issues this Consolidated Complaint and Notice of Hearing and alleges as follows:

1

(a) The charge in Case No. 23-CA-4938-1 was filed by the Union on December 17, 1973, and was served upon Respondent by registered United States mail on December 17, 1973.

(b) The charge in Case No. 23-CA-4938-2 was filed by the Union on December 17, 1973, and was served upon Respondent by registered United States mail on December 17, 1973.

2

Respondent is, and has been at all times material herein, a corporation duly organized under the laws of the State of New York, where it maintains its principle office. At all times material herein Respondent, a manufacturer of men's, boys' and children's apparel, with plants in several states and Mexico, has operated a plant in Carrizo Springs, Texas.

3

Within the past 12 months, a representative period, Respondent, in the course of its business, sold and shipped apparel products valued in excess of \$50,000 directly from its Carrizo Springs, Texas, plant to its customers located outside the State of Texas.

4

Respondent is now, and has been at all times material herein, an employed engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

5

The Union is, and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

6

(a) At all times material herein the following-named persons occupied the positions set opposite their respective names and have been, and are now, agents of Respondent, acting on its behalf, and are supervisors within the meaning of Section 2(11) of the Act:

Joseph Lipshic—President

Walter Bullwinkel—Vice President, Production

Perry Stubblefield—General Manager (Texas and Mexico plants)

Richard P. Ray—Engineer (Texas and Mexico plants)

Fred Rios—Chief Mechanic (Texas and Mexico plants)

Hobart Graves—Office Manager (Carrizo Springs plant)

R. G. "Harpo" Garcia—Personnel Manager (Carrizo Springs plant)

Joe Houston—Cutting Supervisor (Carrizo Springs plant)

Bill L. McClain—Shipping and Finishing Supervisor (Carrizo Springs plant)

(b) Commencing on or about December 7, 1973, Joaquin Salgado served on behalf of Respondent as its agent within the meaning of Section 2(13) of the Act.

7

Since on or about December 8, 1973, Respondent has engaged in the following acts and conduct, all occurring at its Carrizo Springs, Texas, plant:

(a) On or about December 8, 1973, Joaquin Salgado interrogated employees concerning their knowledge of the organizational activities of Respondent's employees.

(b) On or about December 8, 1973, Joaquin Salgado interrogated employees on the purpose of the organizational activities of Respondent's employees.

(c) On or about December 8, 1973, Finishing and Shipping Supervisor Bill L. McClain interrogated employees concerning their knowledge of the organizational activities of Respondent's employees.

(d) On or about December 8, 1973, Finishing and Shipping Supervisor Bill L. McClain interrogated employees on the purpose of the organizational activities of Respondent's employees.

(e) On December 12, 1973, Respondent announced to its employees that effective December 16, 1973, the plant minimum wage would be increased to \$1.85 per hour, that the piece work base rate would be increased to \$2.10 per hour and that effective January 1, 1974, employees would be covered by new benefits, including medical insurance, paid holidays and vacations.

(f) On or about December 16, 1973, and January 1, 1974, Respondent implemented the wage increases and benefit program described in subparagraph (e), above.

8

Respondent announced and implemented the wage and benefit improvements described above in paragraphs 7(e) and 7(f) for the purpose of dissuading its employees from organizing and supporting the Union.

9

On or about the dates set opposite their names, Respondent discharged the following-named employees:

Pedro Patlan—December 10, 1973

Rebecca Patlan—December 10, 1973

Jose Sosa—December 10, 1973

Alberto Esquivel—December 11, 1973

Carlos D. Juarez, Jr.—December 12, 1973

10

Respondent discharged the employees named in paragraph 9 above, and has since the discharge alleged above failed and refused, and continues to fail and refuse, to reinstate said employees to their former or substantially equivalent positions of employment because they joined or assisted the Union or because they engaged in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

11

By the acts described above in paragraphs 7 and 8, and by each of said acts, Respondent did interfere with, restrain and coerce, and is interfering with, restraining and coercing, its employees in the exercise of the rights guaranteed in Section 7 of the Act and is engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

12

By the acts described above in paragraphs 9 and 10, and by each of said acts, Respondent did engage in, and is engaging in, unfair labor practices affecting commerce within the meaning of Section 8(a)(3) and (1) and Section 2(6) and (7) of the Act.

Please Take Notice that on the 12th day of March, 1974, at ten o'clock in the forenoon (CDST) in County Commissioner's Courtroom, 1st Floor, Maverick County Courthouse, in the city of Eagle Pass, Texas, a hearing will be conducted before a duly designated Administrative Law Judge of the National Labor Relations Board on the allegations set forth in the above Consolidated Complaint, at which time you will have the right to appear in person or otherwise and give testimony. Form NLRB-4668, Summary of Standard Procedures in Formal Hearings Held Before the National Labor Relations Board in Unfair Labor Practice Proceedings, is attached.

You Are Further Notified that, pursuant to Section 102.20 and 102.21 of the Board's Rules and Regulations, Respondent shall file with the Regional Director, acting in this matter as agent of the National Labor Relations Board, an original and four (4) copies of an Answer to said Consolidated Complaint within ten (10) days from the service thereof and that, unless it does so, all of the allegations in the Consolidated Complaint shall be deemed to be admitted to be true and may be so found by the Board. Immediately upon the filing of its Answer, Respondent shall serve a copy thereof on each of the other parties.

Dated at Houston, Texas, this 30th day of January, 1974.

/s/ LOUIS V. BALDOVIN, JR.

Regional Director

National Labor Relations Board

Region Twenty three

Fourth Floor, Dallas-Brazos Building

1125 Brazos

Houston, Texas 77002

CARRIZO MANUFACTURING CO., INC.

SEPARATION SLIP

Date 12-10 19 73

Full Name Pedro Patlan S.S. No. 336-39 0186

Position Asst. Sup.

Experienced 2-Weeks or Learner

Reason For Separation UNSATISFACTORY
PERFORMANCE ON THE Job

Signed

Supt. [Signature]

FORM # MEX-SS

GENERAL COUNSEL'S EXHIBIT 2

— 340 —

CARRIZO MANUFACTURING CO., INC.

SEPARATION SLIP

Date Dec. 10 19 73

Full Name Rebecca Patlan S.S. No. 347-38-1094

Position Sec.

Experienced 5-Weeks or Learner

Reason For Separation UNSATISFACTORY
PERFORMANCE ON THE Job

Signed

Supt. [Signature]

FORM # MEX-SS

GENERAL COUNSEL'S EXHIBIT 3

— 341 —

CARRIZO MANUFACTURING CO., INC.

SEPARATION SLIP

Date 12-12 1973

Full Name CARLOS JUAREZ S.S. No. 451-18-1539

Position ASST. SUPERV.

Experienced 9 weeks or Learner

Reason For Separation Dissatisfied With Work

Signed

Supt. T. J. [Signature]

FORM # MEX-SS

GENERAL COUNSEL'S EXHIBIT 6

GENERAL COUNSEL'S EXHIBIT 7

(Address given to Carrizo Springs employees 10/12/73)

Carrizo Manufacturing Co.
P.O. Box 397 Phone 876-5266
Carrizo Springs, Texas 78834

Last week our grand opening was a huge success. Mr. Lipshie, the President of our Company and Mr. Bullwinkel, Vice President of production, were very impressed. They asked me to express their appreciation to you for all of your hard work which made the opening the success it was. Just before he left Mr. Lipshie told me that when he got back to his office in New York on Tuesday he would review our policies and that he would get back to me this week with some good news for you. Late yesterday Mr. Lipshie called me and asked me to tell you the following: He has worked up and authorized a new program of wages and benefits for you. I will read them to you and post them in detail tomorrow.

Benefit Schedule:

Wages:

1. Effective with the pay period beginning Dec. 16th, 1973, the base rate for all piece workers shall be increased to \$2.10 per hour.
2. A piece worker will be guaranteed \$1.85 per hour and a piece worker will be paid what he or she earns on piece work or \$1.85 per hour, which ever is greater.
3. All time workers paid on hourly rates will be guaranteed \$1.85 per hour. We will give each job classification their new maximum rates and the step-up progression which will show when you will receive further increases and how much they will be.

4. Effective with the pay period beginning Dec. 23rd, 1973, you will be paid on a weekly base and receive your pay checks every week.

Holidays:

1. The following holidays will be observed.

New Years Day
Good Friday
Decoration Day (Last Monday in May)
July 4th
Labor Day
Thanksgiving Day
Christmas Day

When any one of the Holidays fall on Sunday, the following Monday shall be observed. And when any one of the Holidays falls on Sat., the preceding Friday shall be observed.

2. To qualify for Holiday pay an employee must be on the payroll for 90 days when the Holiday occurs, and must work the last full scheduled work day before the Holiday and the first full scheduled work day after the Holiday, unless permission is granted by the manager to be absent on either or both days.

3. Employees who qualify will be paid for Holidays. The Holiday for a piece worker shall be 8 times his or her average hourly earnings and for a time worker it shall be 8 times his or her hourly rate which is effective on the date of the Holiday.

4. You will receive your Holiday pay on the pay day on which you receive your check covering the wages earned during the week in which the Holiday falls.

Vacation:

Effective next year, 1974, you will have two weeks paid vacation. It will be taken during the Christmas season. The

Company calculates vacation pay on a percentage of your earnings. In this way the people that have worked the longest and those who have the most seniority, receive more money.

When we post this schedule you will see that the people that have worked for us over 25 years receive a whole months pay for a two week vacation. Let me give you some examples how the schedule starts. Next year, Dec. 15th if you have been on payroll at least 9 months but less than 1 year, you will receive 1% of your earnings, which equals $\frac{1}{2}$ weeks pay.

Next year Dec. 15th if you have been on payroll at least 1 year but less than 2 years you will receive 2% of your earnings which equals 1 weeks pay. Then it moves up from there: If you have been on payroll 2 years but less than 3 years = 3% = $1\frac{1}{2}$ weeks pay. If you have been on payroll 3 years but less than 10 years you will receive 4% which equals two weeks pay.

We will post the full details. Of course when vacation falls at Christmas, Christmas Holiday and perhaps New Years Holiday could fall in this vacation time. If these Holidays fall in vacation time you will receive both holiday pay and vacation pay.

Hospital Insurance:

Effective Jan. 1, 1974. The Company will pay for individual employee coverage with Blue Cross Blue Shield Hospitalization plan. Blue Cross covers Hospital benefits. Blue Shield covers surgical benefits and the policy also covers dread disease. And added to this will be a life insurance policy of \$1500.00 Mr. Lipshie has made arrangements to send a man down here next week to enroll you and explain the details to you.

Mr. Lipshie has also made arrangements for you to be able to purchase coverage for your dependants at a very low cost. This will be your decision and it will be explained to you.

Mr. Lipshie is glad the Company can provide and pay for your individual coverage of hospital, surgical, dread disease, and Life Insurance. He is also glad we can let you take out dependant coverage for your family which you would pay for. If you decide to take dependant coverage and pay for it, this will be a low rate that Mr. Lipshie has secured for you.

It is our Company policy to have our employees progress as rapidly as circumstances will permit. This means we need to make good pants at competitive prices and make a reasonable profit.

Our Company has always been proved to be among the leaders in our industry and we are also proved that we give our employees wages and benefits that compare favorably with anyone in our industry in the same general area. This is made possible because we try to hire the best people, we work together, we solve our problems together, and in this way we can progress together. This is how we move ahead.

As a matter of fact this Company has been in existence since 1893. Salant Corporation has 29 Plants. In the United States only 9 Plants have a Union and most of these came on during World War II. The last Plant that was organized was in 1966. Unions have tried since then and have not succeeded because our employees said No to the Union.

Let us work together here as we have during the past month and let us grow together in this way, so I can always talk to you about happy news as I did today. You will be paid for the time I have talked to you.

Thank you,

Perry Stubblefield

GENERAL COUNSEL'S EXHIBIT 8

Rates Effective Dec. 16th 1973

Job	Start	Maximum	
I—Janitor/Watchmen	\$1.85	\$2.00	Increase every 3 mos. 3 @ .05
II—General Time Workers	1.85	2.00	Increase every 3 mos. 3 @ .05
III—Stamp Bands	1.85	2.05	Increase every 3 mos. 4 @ .05
IV—Shader-Label or ticket Printer-Numbering- Para Seal—Piece Goods- S:Q.C.-Mechanic Trainee	1.85	2.05	Increase every 3 mos. 4 @ .05
V—Tie-Up	1.85	2.10	Increase every 3 mos. 5 @ .05
VI—Shipping-Receiving- Lab Girl	1.85	2.15	Increase every 3 mos. 1 @ .10 4 @ .05
VII—Pocket Cutter-Lining Cutter-Re-Cuts	1.85	2.20	Increase every 3 mos. 1 @ .10—5 @ .05
VIII—Spreading	1.85	2.25	Increase every 3 mos. 2 @ .10—4 @ .05
IX—Tracer Marker	1.85	2.35	Increase every 3 mos. 2 @ .10—6 @ .05
X—Cutter or Mechanic	1.85	2.55	Increase every 3 mos. 6 @ .10—2 @ .05
XI—Regular Marker	1.85	2.65	Increase every 3 mos. 8 @ .10
XII—Texograph Marker	1.85	2.75	Increase every 3 mos. 6 @ .10—2 @ .15
XIII—Senior Mechanic	2.55	2.95	Increase every 3 mos. 4 @ .10

The following are piece work operations with productions established to produce base rates.

Button Hole	Base Rate	\$2.10
Top Press	"	2.10
Leg Press	"	2.10
Zippers	"	2.10
Inspect	"	2.10

Insurance

Effective January 1, 1974, the company will pay for individual employee coverage with a Blue Cross, Blue Shield hospitalization plan.

Blue Cross covers hospital benefits. Blue Shield covers the surgical benefits. The policy also has a dread disease coverage and added to this will be a \$1,500.00 life insurance policy.

Mr. Lipshie has also made arrangements for you to be able to purchase coverage for your dependents at a very low cost.

Mr. Lipshie is sending a man down here next week to sign you up on the insurance plan and explain the details.

Vacation

Vacation and Vacation Pay:

- a. There shall be 1 vacation period each year during the Christmas season.
- b. An employee's length of service as of December 15th of each year shall fix his right to vacation pay for the two week Christmas vacation. It is understood that where there has been a break in employment, such length of service shall be measured from the last date of employment.
- c. To qualify for the vacation pay hereinafter provided an employee must actively be on the payroll December 15th of each year, which means on said date he has not been separated from the payroll.
- d. Vacation pay for the two week Christmas vacation will be paid on the basis of earning for the four (4) calendar quarters ending on September 30th immediately preceding the December 15th qualifying date.

e. Vacation pay schedule:

The schedule for the 2 week Christmas vacation pay is as follows:

Length of Service as of December 15th	Percentage of total earnings for the last four calendar quarters ending the preceding September 30th
1. Less than 9 months	not eligible
2. At least 9 months, but less than 1 year	1%
3. At least 1 year but less than 2 years	2%
4. At least 2 years but less than 3 years	3%
5. At least 3 years but less than 10 years	4%
6. At least 10 years but less than 20 years	6%
7. At least 20 years but less than 25 years	7½ %
8. 25 years or more	8⅓ %

The pay period for vacation pay will be the last payday before Christmas day.

The company shall post notices on the bulletin board in the plant at least 30 days prior to the beginning of the Christmas vacation period so that the employees may be informed in advance when vacation begins.

Employees required to work during the Christmas vacation period will be given their vacation period at another time.



Holidays

The following holidays will be observed:

New Years Day
Good Friday
Decoration Day (last Monday in May)
July 4th
Labor Day
Thanksgiving Day
Christmas Day

When any one of the above Holidays fall on Sunday, the following Monday shall be observed. When any one of the Holidays falls on Saturday the preceding Friday shall be observed.

To qualify for Holiday Pay an employee must be on the payroll for 90 days when the Holiday occurs and must work the last full scheduled work day before the holiday and the first full scheduled work day after the holiday; unless permission is granted by the manager to be absent on either or both days.

Employees who qualify will be paid for holidays. The holiday pay for piece workers shall be 8 times his or her average hourly earnings and for a time worker it shall be 8 times his or her hourly rate which is in effect on the date of the holidays.

Holiday pay will be paid the pay day on which you receive your check covering the wages earned during the week in which the holiday falls.

Employees required to work on a Holiday will receive their regular pay plus holiday pay provided they are not given another holiday the following week in which case the employee shall receive holiday pay under the same condition as above.
